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A critical study of the historical method of Samuel Rawson Gardiner with an excursus on the historical

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A CRITICAL STUDY OF THE HISTORICAL METHOD OF SAMUEL RAWSON GARDINER

WITH AN EXCURSUS ON THE

HISTORICAL CONCEPTION OF THE PURITAN REVOLUTION FROM CLARENDON TO GARDINER

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PREFACE

The collection of materials for this essay was begun fourteen years ago during the prosecution of my first researches in the ecclesiastical and legal history of the Tudor and Stuart periods. After reading Gardiner's volumes, I felt far from sure that I had grasped his view of the period, its forces, and characters. It seemed to me that the difficulty I experienced was due mainly to the fact that his judgments were to be found chiefly in widely sundered comments, which needed only to be placed side by side to make their relationship clear and consistent. I therefore undertook to analyze and correlate these comments. My first results were so unexpected that I repeated the process upon topic after topic. Eventually, my accumulation of material suggested this essay, the composition of which was begun in Paris in the winter of 1903–04. It has since been thrice rewritten and many times revised. Strictly speaking, it is an appendix to my *Reconstruction of the English Church* and my *Rise and Fall of the High Commission*. It is also a necessary preface to the publication of the results of subsequent researches upon the lives of Sir Francis Bacon and Sir Edward Coke and upon the parliamentary history of the period.

Washington University,
St. Louis, October, 1915.

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I

GARDINER AND HIS CRITICS

The two volumes published in 1863 entitled *The History of England from the Accession of James I to the Disgrace of Chief Justice Coke* were received by the reviewers with a mixture of appreciation and derision in which severe criticism was the dominant note. The *Atheneum* (March 21, 1863) contained a scornful and biting review colored, of course, by the conception, then prevalent, of history as a branch of literature. Mr. Gardiner "is a pupil of the dry old school of historical writing, in which facts stood for ideas and dates for pictures; and in that useful rather than ornamental academy he may occupy one of the vacant chairs. We do not every day meet an author with whom we could so easily agree: if, in reading him, we could only keep awake. Such facts of the period, 1603–16, as Mr. Gardiner could learn, he has duly set forth; such beings as he conceives to have then lived in England, he has painted; such unpublished matters as a rapid raid through the British Museum yielded to his search, he has printed at length. The sequence of events is fairly laid down in his pages, and that in a sedate and sober spirit, far removed from the extremes of enthusiasm and vituperation which some recent writers on this particular period have not been ashamed to exhibit. We do not say that his facts are true, his characters human, or his materials fresh. The facts of the case are often very much at fault, and the actors on the scene are depicted in a small, weak way, with the grand outlines and the color of nature all left out." Gardiner's complaint that the period lacked dramatic interest seemed to the reviewer (and on this point there was general agreement) to proceed rather from the author's own lack of insight and of dramatic power than from any deficiencies inherent in the period itself.

Its constitutional significance, he declared (and was here again supported by the general opinion), Gardiner had entirely

over-estimated. "Mr. Gardiner is not strong in his facts, but it is only in his speculations that he becomes amusingly weak. His theories of the English constitution would have made Hallam stare. These theories come out in the very title and conception of his book." By any proper reading of English history, the reviewer contended, the disgrace of Coke could not be called an event of the first importance, and certainly could not by any stretch of the imagination be made into a definition of the limits of the constitutional authority of the Crown. But "the fundamental vice of this book, as a mere book, apart from the wrong ideas on which it is based . . . is the false light in which Cecil is placed." "So far from having formed to himself any clear conceptions of this central figure, Mr. Gardiner maunders from first to last that he can not make him out. . . . In all our reading we do not recollect a case in which an author has so meekly confessed his inability to grapple with a character, which he, nevertheless, undertakes to endow with life and motion. . . . His want of any true insight into Cecil's character causes him to flounder helplessly in the dark through all the public transactions of the reign."[1]

The *Spectator* (April 4, 1863) and *Saturday Review* (April 25, 1863) (the only other periodicals of consequence to notice the book at all) in the main agreed. Both thought Gardiner's style a relief from the more picturesque writing then in vogue, but the *Saturday Review* in particular thought Mr. Gardiner much "too sedate." Both found his ideas of his characters vague and indecisive, and both thought him apologetic in the extreme for everybody's shortcomings. "His instincts," said the *Spectator*, "are continually prompting him to fall down and kiss the feet of his heroes." For these numerous criticisms there were some compensations. The *Spectator* spoke of the "careful and thoughtful volumes," and called him an honest, able, careful, conservative writer, and pointed with praise to his rejection of the old legends. The *Saturday Review* said that "he has many of the qualifications of a historian," found him "eminently dispassionate," "commendably fair," thought his "accuracy and

[1] All these citations are from the review in the *Atheneum* for March 21, 1863.

care" "praiseworthy." It added, however, "there is little fresh matter brought to light by him, nor are any new views of the history of the time broached. In his philosophical reflections he is just and sensible, albeit not very pointed or profound." It thought on the whole he failed to grasp the meaning of the Renaissance and Reformation.

The next two volumes, on *Prince Charles and the Spanish Marriage*, were more cordially received. The *Spectator* (July 24, 1869) declared that "like its predecessor it will take high rank in the authentic annals of James's reign, and is likely to supersede all others as the recognized standard history of the period of which it treats. We are astonished at the vastness and completeness of the work. The amount of research and examination Mr. Gardiner has gone into seems almost incredible. . . . And his intelligence is equal to his zeal. . . . All matters of foreign or domestic policy, and all petty quarrels or religious discussions he has treated with charming facility."

The *Atheneum* (May 8, 1869), however, was still disposed to be censorious. The title, it said, was preposterous (a chapter of the history of England one thousand pages long!). To call it the "Spanish Marriage" was incorrect for, as Gardiner himself proved at length, the marriage never took place; then 750 pages were filled before "we hear a single word about the incident which gives name to the book." "Only fancy a history of 'Prince Charles and the Spanish Marriage' offered to a suffering reader with prefatory matter covering 750 pages!" The book had neither unity nor freshness: "Mr. Gardiner has little either to add or to correct and that little he might have thrown into half a dozen pages." As for the author, he was lacking in insight, in humor, and in a grasp of the period; he showed in every line "his incapacity to reason on his facts." The reviewer had pointed out that the first sentence of the previous two volumes contained three glaring errors;[1] so now he quoted a case where

[1] "The very first line of the book—'On the night of the 23rd of March, 1603, Elizabeth, as all England knew, was lying on her deathbed'—contains three mistakes. The year was 1602, as the time was then kept. She was not lying on her bed, nor did she die on her bed. All England did not know it; indeed, the secret was so well kept that London did not know it."

Gardiner said one thing in the text and quoted evidence from the official records to the direct contrary in his footnote.[1] He also pointed out how Gardiner's ignorance of legal history marred his account of Bacon. "Such a blunder on the part of Mr. Gardiner is fundamental and vitiates the whole train of what he calls his reasoning on this complicated and difficult case. There are a hundred errors of a similar kind in these thick volumes; but our readers will probably think we have adduced enough to satisfy the most cautious judge." Indeed the objections of the critics to Gardiner's titles and to the arrangement of the first two instalments were so convincing that, in the revision, he dropped the contention about the importance of Coke's disgrace, and stopped writing about the "Spanish Marriage."

A most astonishing change took place in the attitude of all the reviewers, and of the *Atheneum* in particular, on the appearance of the volumes on *England under Buckingham and Charles I*. From fiery fault-finding, the reviewers all changed to temperate and respectful comment. We begin to find that Gardiner has used much new material and has rewritten the history of the period; the *Atheneum* found his "tedious" style a really "dignified and impartial treatment" of the subject; while the *Saturday Review* praised his "admirably lucid narrative." The *Quarterly* and the *Edinburgh Review* for the first time deigned to notice the author, and were on the whole very favorably impressed with his work.[2] The sales for this instalment even paid the expense of publication. From this time on success was assured and the chorus of praise only grew louder and warmer with the appearance of each succeeding volume. Indeed, critics and historians seem to have striven to outdo

[1] "In the matter of Lady Wharton's lawsuit,' he says, 'There was no deed drawn up by Shute or any other person for Lady Wharton,' and then he quotes from the Order Books of the Court of Chancery—to which he found a reference in a previous writer—these words: 'Sergeant Ashley read a deed of my Lady's brought thither by Mr. Shute, being of her counsel.' This contradiction in express terms occurs in the same note. The point is of no importance, except as showing with what carelessness Mr. Gardiner works."

[2] *Saturday Review*, May 29, 1875; *Atheneum*, Feb. 6, 1875; *Quarterly Review*, July, 1875; *Nation*, Aug. 5, 1875; *Edinburgh Review*, Jan., 1876.

one another in praise of his last volumes on the Protectorate. The *Quarterly Review*, in finally estimating his contribution to history, declared that he "left us the most exact and impartial account which we possess of any period in the annals of the British race."[1] The New York *Nation* termed his history "incomparable;"[2] the *Spectator* spoke with "profound reverence" for his achievement.[3] Historians vied with reviewers. Rev. W. H. Hutton declared the eighteen volumes a final history of the period; "for fact or opinion, it will never need to be written again;"[4] while J. F. Rhodes asserted that we knew English history from 1603 to 1656 "better than we do that of any other period of the world, and for this we are indebted mainly to Samuel Rawson Gardiner."[5] During the last twenty years of Gardiner's career, the reviewers contented themselves with a mere summary of his ideas, as each volume portrayed them, and the *Quarterly Review* went so far as to say that, "as Mr. Gardiner's position in English literature is now firmly established, any further comment on his high conception of the duty of an historian, or on his fulfilment of that idea, would be almost an impertinence."[6]

Other critics have been less certain of the justice of this concert of praise. None indeed wished to detract from the very great credit personally due a man who worked for years with a single purpose in the face of poverty, isolation, and the multifold petty tasks by which he was forced to make his living. Nor have they been less loud in their praise of his diligence, his accurate and careful handling of voluminous material, his impartiality, or his tireless research. So much has been said upon these points that it would be a work of supererogation to consider them at length in this essay, for they are not to be

[1] *Quarterly Review*, CXCV, 565.

[2] *Nation*, May 30, 1901, and March 9, 1882.

[3] *Spectator*, April 27, 1901.

[4] *Cornhill Magazine*, N. S., XV, 788. See also F. York Powell in *English Historical Review*, XVII, 278; A. Ward in *Ibid.*, VII, 573; Goldwin Smith in *American Historical Review*, III, 529.

[5] *Atlantic Monthly*, 89, 701, May, 1902.

[6] *Quarterly Review*, July, 1882. Reviewing the *Fall of the Monarchy of Charles I* (*History*, IX, X).

questioned any more now than in 1869 when the other party among his critics first showed itself. The critics have not limited themselves to Gardiner's style, the deficiencies of which his most ardent admirers have deplored, and which others have not scrupled to declare dull, awkward, and illogical, lacking in brilliance and even in clearness. His natural tendency to favor the Puritans and to idolize Cromwell did not escape notice,[1] and indeed no one could have more frankly acknowledged it than Gardiner himself.[2] He was descended from Cromwell; he belonged to the Irvingite sect and married Irving's daughter; in politics he was a Liberal, but not aggressively democratic. Of all these tendencies he was keenly aware and was always on the watch to see that they did not prejudice his views. Nor, in truth, has any one seriously claimed that they did influence him. Certainly the hardships which followed his espousal of Irving's views—the loss of an Oxford fellowship and the long years spent in earning the living he could have had from it—might reasonably have left traces of bitterness against the Established Church. But none such can be found, and even if it is true that the ecstatic fervor of admiration for Irving faltered somewhat with the death of his wife and the lapse of years, his gentle spirit never complained of the consequences of that early step. These are not the prejudices and preconceptions with which his critics have charged him.

The *Atheneum*, the *Academy*, the *Critic*, the New York *Nation*, besides several well-known historians, have reiterated the charge that Gardiner's volumes are only a sort of annual register or *Jahrbuch*, a compilation of dates and events, whose bare chronological arrangement and scattered facts, connected only by disjointed comments, must prevent their ever being recognized as belonging to the highest form of historical literature.[3] Indeed, they have vigorously denied that Gardiner had brought

[1] F. York Powell, *English Historical Review*, XVII, 278; *Saturday Review*, April 8, 1882; *Atheneum*, 1902, I, 272.

[2] Preface to the *Fall of the Monarchy of Charles I*, vi.

[3] *Atheneum*, May 8, 1869, Feb. 6, 1875; *Academy*, 62, 223, 1902; *Critic*, 38, 546, 1901; *Nation*, May 30, 1901; E. P. Cheney in *American Historical Review*, XI, 770, 1905.

forward much new evidence or had vitally changed the interpretation of English history.[1] That details were altered, some legends rejected, a little added here or cut off there, was freely and frankly admitted from the very first. The charge was that he had corrected the minor details but had not altered our view of the great facts of English history; he had revised our ideas of James I's propensity for liquor, but he had not altered our conception of his policy nor of its wisdom.

But, far from stopping here, Gardiner's critics have applied the oldest of standards to him and have declared him inconsistent with himself; either his comments do not fit his facts or his own statement of the facts does not support his conclusions. "We cannot understand," said the *Spectator* in 1863, "how it is that a thoughtful writer like Mr. Gardiner does not see that his theories about the characters of these men are not reconcilable with his facts. Like many other historians of this day, he has brought to his task certain historical generalizations with which the new facts he has been enabled to collect will not harmonize. He has not the courage to throw away his theories and reconstruct them on the broader basis of his discoveries. . . . He has had strength and penetration enough to throw aside the calumnies of Wilson, Weldon, and Coke; he has resolutely set his foot on those historical libels which swarmed in the Commonwealth, and have hitherto been accepted without examination as true pictures of the reign of James I; he has cleared away much of the dust and rust with which the character of James and his advisers have been overlaid; but he has not so completely emancipated himself from modern theories about that reign and the men who flourished in it—theories more pleasing to admit than the libels of Wilson and Weldon, but resting sometimes on no better historical evidence."

No less an authority than Ranke came to the same conclusion.[2] The *Atheneum* in 1869 and in 1875 made almost the same complaint, and the *Quarterly Review* in 1875 took up

[1] *Atheneum*, 1863, 1869; *Spectator*, 1863; *Saturday Review*, 1863, 1877; *Quarterly Review*, 1875; *Nation*, 1875, 1882.

[2] *History of England*, I, 470 (translation, Oxford, 1875).

the point at great length. "While, as usual, we are at one with Mr. Gardiner in his criticism and account of events, we here, as not infrequently, are compelled to disagree with him in his appreciation of persons. We trust he will pardon us the observation, but we sometimes cannot, try as we will, make him agree with himself. He is complete master of the facts; we are indebted in chief to him for our own knowledge of them; he deserves the greatest credit and he has our sincerest gratitude for his most laborious, exact, and candidly-recorded researches; but surely his facts themselves make as evidence against the conclusions which he ultimately inclines to draw from them. He speaks of James as being 'in Sarmiento's net,' and again of his 'dragging to the horror of patriots the English nation to unutterable shame.' Why that is just the old partial, prejudiced view, which we should have supposed had been finally dissipated by the agency of Mr. Gardiner's own narrative."

The reviewer went on to illustrate the point at length from Gardiner's statements anent the personal relations between James and Gondomar and from Gardiner's descriptions of the character of both men. While Gardiner's comments blamed James for the same stupidity and foolishness so long laid at his door, his facts showed us a new James, quite in command of the situation and the only man who really understood it. Mr. Spedding, however, first really took up the cudgels on this score in *Frazier's Magazine* in 1870, devoting to it the whole of a very long article.[1] When the reviewer for the New York *Nation* had finished the *Personal Government of Charles I* he was convinced that Gardiner's ideas of Wentworth and of Charles were not borne out by his own facts.[2] He strenuously objected to Gardiner's delineation in the next volumes of the characters of Pym and Strafford, but he added that the impression was "happily rendered innocuous by the perfect truthfulness of Mr. Gardiner's narrative."[3] Even so staunch an admirer of Gardiner as Professor Firth admitted that on Gar-

[1] See *infra*, pp. 15–18.

[2] *Nation*, XXVII, 12; July 4, 1878.

[3] *Nation*, XXXIV, 210, March 9, 1882.

diner's own facts other students came to a different estimate of Cromwell than Gardiner's own.[1]

This point has been illustrated at some length because it is so serious a charge that it seems at first almost incredible. For the general reader, for the tyro in history, indeed, for every one except the expert, such a fault would seem to rob the book of most of its value. But the point cannot be dismissed without examination when it is the criticism of such men as Ranke and Spedding, and has been repeatedly maintained by such representative reviews as the *Spectator*, the *Atheneum*, the *Quarterly*, and the *Nation*, and when, as a matter of fact, it has been directed against nearly every volume of the eighteen.

This criticism may shed some light upon another complaint which was very general among the earlier reviewers. These critics said that Gardiner's views were not clear: it was difficult to know what he did mean. "The men are only half seen, the ideas are only half felt," said the *Atheneum* in 1863; while the *Saturday Review* declared in the same year that "if he has formed, he has certainly not communicated, any adequate notion of the great statesmen of the time. . . . All his portraits are dim, almost blurred." But Gardiner's literary technique developed rapidly and such complaints soon ceased, only to be replaced by a different manifestation of the same "fault." The critics began to disagree violently as to what it was that Gardiner had proved. The *Spectator* and the *Atheneum* declared that his idea of Bacon was weak and unsupported by his own facts; the *Saturday Review* commended it as sound.[2] When the *Quarterly Review* declared in 1875 that Gardiner had created a new James I, the *Edinburgh Review* at once trumpeted its loudest note of defiance and replied that its rival's reviewer seemed not to have read Mr. Gardiner's book, where the opposite conception of James was writ large. The *Quarterly* had found James shrewd, able, clear-headed and the only man in Europe who really understood the political situation. The *Edinburgh* insisted (and quoted "proof" at length from Gar-

[1] *English Historical Review*, XV, 175.

[2] *Spectator* and *Saturday Review* for 1863; *Atheneum*, 1869.

diner's comments) that James was the same doddering, blundering dolt that he had always been reputed, a "wise fool" led round by Buckingham and Gondamar (*sic*).

That Gardiner had rehabilitated Charles and disproved the old prejudiced ideas has been announced as one of his greatest achievements; and yet the *Nation* in 1875 found that he had given the old views "the strongest confirmation" and had shown that "Charles was, though not the worst man, yet nearly the worst ruler who ever sat on the English throne." Similar disputes have arisen over the more recent volumes. The *Nation* in 1901 declared that Gardiner's work had forever destroyed the heroic Cromwell of Carlyle. And yet one year later Mr. Rhodes wrote in the *Atlantic Monthly* that "there might have been a reaction from the conception of the hero worshiper, had it not been supported and somewhat modified by so careful and impartial a student as Dr. Gardiner." Professor Firth and Mr. Gooch have still a third view of Gardiner's Cromwell; that Gardiner thought him a man of faults and frailties, by no means a hero, yet of undeniable greatness, with a halo somehow clinging to him.[1] To these points we may add the opinion of the *Quarterly Review* that Gardiner "is somewhat too anxious to justify Cromwell; he will not let him have the credit of his crimes, if crimes they were; and he leaves us in doubt whether it is his opinion that Cromwell prepared, as well as understood, or whether he only acted on occasion as pointsman, directing what he had no power to control." [2]

One little passage at arms between the reviewers is distinctly interesting in this connection. When the crown of Bohemia was offered to the Elector Palatine, Frederick sent a courier post haste to his father-in-law to ask his advice about accepting it. James took a few days to think it over. Had James, says Gardiner, sent Frederick a decisive no, he might have influenced the whole course of human history, and this failure to understand and grasp his opportunity was fatal. The *Quarterly Review* supported James and thought Gardiner's strictures unfair and

[1] *English Historical Review*, XV, 171; *ibid.*, XII, 579.
[2] *Quarterly Review*, CLXXXVII, 448 (April, 1898).

lacking comprehension of the situation. True to its ancient traditions, the *Edinburgh Review* of January, 1876, denied this and declared the case an excellent demonstration of the truth of Gardiner's dictum that Gondomar controlled James and had him in leading strings. The reviewer sarcastically commented on the futility of his rival's attempt to enlighten Mr. Gardiner.

But both of them seemed wholly unaware of the fact that Spedding, in *Frazier's Magazine* for 1870, had already shown that Gardiner's own facts rendered the comment not only invalid but preposterous. About a week after James received Frederick's request for advice, the dispatches told him that Frederick had already decided to accept the crown, thus making it clear that James never had an opportunity to change the fate of Europe. Frederick made his decision not only without waiting to hear from his father-in-law but at practically the very moment when James received his request for advice. If James had sent a messenger post that same day, he could not have arrived in time. Yet, as Spedding points out, from this unwarranted assumption Gardiner adduces a judgment of James and James's policy. No change, however, was made in the revised edition of the *History* either in text or comment.[1]

James Spedding, in fact, was the only critic who examined at length and attempted to explain this perplexing peculiarity, and a more capable critic Gardiner could hardly have had. Spedding was dealing with a period on which he was the only man whose knowledge and experience approached Gardiner's, and he was at the moment of writing at the very height of his powers. He was further an eminently fair man, filled with the finest critical spirit, keenly alive to Gardiner's merits, generous in his praise, and actuated in his criticism only by love of truth and impartiality. The revised edition of Gardiner is, with some slight verbal alterations and considerable changes in arrangement, the same that Spedding read, so that his opinion is to-day as valuable as when written. After a most generous tribute to the excellence of the new evidence and to

[1] *History of England*, III, 311–312.

Gardiner's impartiality and accuracy, he addresses himself to the explanation of this perplexing discrepancy between Gardiner's facts and his conclusions.

The solution of the difficulty Spedding found in Gardiner's strong preconceptions in regard to the character of his personages, their actions, and the meaning of the period. "The truth seems to be that he has formed in his own mind a conception of the mental and moral condition of the persons he writes of so clear and distinct that he feels as if he understood the meaning of a transaction better than the reporter from whom he learns it, and cannot refrain from adding little touches of his own to make the true import of it more intelligible to the reader; and though this is commonly done in the way of professed commentary, and thereby sufficiently distinguished as his addition, the comment is sometimes so inwoven into the narrative that it seems to make part of it, and it is not at first clear on whose authority that portion of the story rests." A certain lady, Donna Luisa de Carvajal, was arrested as a papist; Gondomar demanded her release on the ground that she was innocent; James consented on condition that she should leave England; Gondomar retorted that in that event he must accompany her; thereupon James released her unconditionally. Around this incident, says Spedding, Gardiner draws an imaginary picture. "We say imaginary picture because we do not understand him to imply that Gondomar himself makes claim to any victory beyond the liberation of the lady. The rest we presume to be mere conjecture, and we will give it in his own words. 'He (Gondomar) had met James, as it were, face to face, *and James had quailed before him.* From henceforth the two men knew each other; and when the time came in which James would be looking round him for a stronger arm than his own, he would bethink him of the Spanish stranger in whom he had so *unexpectedly found a master*' (vol. I, p. 13). This we cite as a fair sample of the way in which Mr. Gardiner allows his preconception of men's characters to shape, not his reports of their actions—for his reports, as far as we can judge, are almost always carefully accurate—but his inferences as to their import. Gondomar

was the strong man, James the weak. Therefore when they came into collision, James must have quailed, Gondomar must have shown himself master. . . . And we find, as we go on, that this idea governs Mr. Gardiner's conception of their intercourse all through." Spedding insists that quite probably the King found that Gondomar was right, the lady was suspected without cause, and hence he set her free unconditionally of his own accord. This would not prove a battle between him and Gondomar.

Spedding finds even more remarkable Gardiner's handling of a conversation between James and Gondomar anent the House of Commons. The King spoke of the House as disorderly; " 'here' (proceeds the original report) 'he began to look a little annoyed and embarrassed as if remembering what they had done to him; and Don Diego said that he had a great prerogative and authority over the parliament, which was to summon and dismiss it when he chose. At this the King recovered himself and said that this was true, and that without his approbation nothing which was said or done by parliament was worth anything. Immediately after this they talked of the marriages, etc.' . . . Gondomar had an imperfect perception of what was really passing in James's mind. Mr. Gardiner knows him better, and improves the narrative by the following touches of his own hand. Instead of the passage we have quoted (which is Mr. Gardiner's own translation of Gondomar's words) we read in the *History* (vol. I, p. 22) this: 'Here James colored and stopped short. *He had been betrayed into an admission that there was something in his dominions which he could not get rid of if he pleased.* Sarmiento, with ready tact, came to his assistance, and reminded him that he was able to summon and dismiss this formidable body at pleasure. "That is true," replied James, *delighted at the turn which the conversation had taken*, "and what is more, without my assent the words and acts of the parliament are altogether worthless." *Having thus maintained his dignity*, James proceeded, etc.' The imputation here implied —namely that James believed, or wished others to believe, that there was nothing in his dominions which he could not get rid

of if he pleased, and that the assertion of this was necessary to his sense of dignity (which, if true, would undoubtedly imply that he was either a fool or an impostor)—is entirely due, we see, to Mr. Gardiner's imagination."

Really the issue which Gardiner's critics have raised is not his merits, but his limitations. None denies that he has written a book which for many years will remain the best account of the period we have. His many merits have been freely and frankly admired. His critics have been attempting to gauge his limitations: to *demonstrate* his accuracy; to *prove* his consistency; to *test* his impartiality; to *measure* and *indicate* his fallibility; in a word, to discharge all those duties which appertain to criticism in its highest meaning.

II

GARDINER'S METHOD

Reviewers and historians have very generally praised Gardiner's method. From the first it was said to inspire confidence;[1] to possess breadth and variety; while in the last years before his death its excellence was affirmed in sweeping terms. Professor Laughton declared in the *English Historical Review* that by merely reading Gardiner the student would get "a valuable lesson on the best methods of historical research."[2] Guernsey Jones, in the *American Historical Review*,[3] said that Gardiner had permanently raised the "standard of historical writing among English speaking peoples," while the *Atheneum* in 1897 gravely said, "we close this further instalment of his great work with renewed conviction of the worthlessness of another historical method by the side of his, and with renewed reverence for its author." The reviewer added, "we cannot but leave him as sole and undisputed arbiter both of it and of his own achievement."[4]

It is this stress laid upon the excellence of his method by critics and historians that justifies a somewhat detailed investigation of his work, a statement of his method, of his point of view, of his attitude towards history in general, and an examination of its results in his work. Moreover, as this essay will attempt to show, his method is directly responsible not only for his virtues but for his faults. His critics have not always known that the very points they criticized would have been defended by Gardiner as the natural and logical results of his method.

[1] *Spectator*, July 24, 1869.

[2] *English Historical Review*, XIII, 167.

[3] *American Historical Review*, VII, 135.

[4] *Atheneum*, 1897, II, 596. See also on this point, *Saturday Review*, Dec. 22, 1877, April 8, 1882; A. Ward in the *English Historical Review*, VII, 573; Goldwin Smith in the *American Historical Review*, III, 529; *Spectator*, Jan. 22, 1898; *Quarterly Review*, July, 1882.

It is hardly necessary at this late day to do more than to allude to the now well-worn story of Gardiner's passion for seeing all the evidence, in any archives, in any language, in print or manuscript, the legible, the illegible, the ciphered dispatches, and the torn fragments alike. He never left a stone unturned that he thought could be of value.[1] He once read several hundred of the Verney letters merely to make the social life of the Civil War a little more vivid to him. To see all the evidence, to test it all carefully and critically, to establish thus the true course of events was his great aim, and to it everything else was subordinated and even seemed to him of little importance. His chief dictum was that a strict adherence to chronology is the key to everything, and to any knotty point he applied this test, without much doubting that the resulting narrative would reveal *ipso facto* the true view of the situation as well as the true sequence of events.[2] He reacted strongly against Macaulay's habit of applying to the elucidation of a series of events all the knowledge he had of their past, present, and future. "His method and his principle were to put himself in the position, without the partisanship, of a contemporary, and to watch events as they unfolded under his gaze. His knowledge of succeeding events he deliberately put out of his mind. His business and his desire were to explain the evolution of events internally, as the process of that evolution went on under his gaze, or rather in his translated experience. So completely did he adopt this principle of investigation that he refused time and time again to consider evidence or historical material that was in advance, even by a twelvemonth, of the particular point of investigation which he had reached. If he was working at the year 1653 he would decline the offer of material relating to 1654. 'I am not ready for that yet,' he would say, in his inexpressibly gentle way. What he meant by these words was that he wished to follow the evolution of events as if the future was hidden and unknown to him. . . . When once the real course of events had been thus ascertained

[1] Preface to *Prince Charles and the Spanish Marriage*, xv.
[2] Preface to the *Great Civil War*, iii, viii, (1891).

and set forth in an unimpassioned narrative, the self-imposed limitations of method fall away, and the historian emerges in his personality to rise above his subject, to look down upon it and all round it, from his vantage point of a later time and a different sky." [1]

He wrote as he worked. When he felt he had exhausted the materials on a certain subject, he wrote out what he *then* conceived the facts to be on the evidence he had up to that time seen, and recorded such comments and considerations as the facts and evidence suggested to him. He usually wrote at the British Museum in the midst of his manuscripts and pamphlets, and, when a few pages were done, he sent them directly to the printer.[2] Those who watched him working testify that he wrote rapidly, and rarely corrected or radically revised what he had written.[3] At first he was much bothered by the difficulty he found in expressing himself, and by the lack of a vivid and energetic style,[4] but he evolved one after a time that satisfied him fairly well. Anything, however, beyond an intelligent attempt to attain clearness and vigor, he felt wholly beside his duty as a historian: to experiment with different ways of expressing a given thought was to waste time.[5] When he saw what magnificent pictures and letter press Goupil et C^ie^ meant to bestow upon his life of Cromwell, he felt that he ought to pay a little more attention to his style. He afterwards regretted the time so spent, for he felt he had not been true to his principles, and had frittered away precious moments in which he might have acquired some new facts.[6]

[1] *Atheneum*, 1902, I, 272; *Quarterly Review*, CXCV, 562; also *Atheneum*, 1902, I, 307; *Academy*, 62, 223.

[2] The first chapter of *What Gunpowder Plot Was* contains clear internal evidence of this practice (especially pp. 13–15). He is starting out, he says, on an investigation and begs the reader to accompany him, but he has not yet the slightest idea of the conclusion to which he will come. Come with me, and see, he says. Again he says in the preface to *Prince Charles and the Spanish Marriage*, XV: "On looking over the first two or three pages of Chapter XII, I am afraid that I have been led too far by a desire to reconcile discrepant authorities."

[3] *Atheneum*, 1902, I, 307.

[4] F. York Powell in *English Historical Review*, XIII, 277.

[5] F. York Powell, *ibid.* He commends Gardiner's choice.

[6] *Atheneum*, 1902, I, 308, based upon conversations with Gardiner.

What he really tried to do was to put before his reader the chronological development of the story as he himself "lived" it day by day, without ornament or other explanation or comment than occurred to him at the time. As he expressed it, he "watched" Charles or Cromwell, speaking or acting, and simply wrote down what he "saw."[1] Indeed, whatever value his comments had, came, he felt, from the fact that they were spontaneous, and would show the reader not what his final opinion would be, or what his final interpretation of any man's character was, but the opinion he had at that moment. That his opinions any more than his handling of the evidence ought to be influenced by his own views of what would follow, he did not believe. He tried to put himself in the position of a contemporary and study the period without bias or preconception. That his comment on page 100 did not agree with his facts on page 200 or with his comments on page 300, did not trouble him in the least. If he thought Charles was one sort of a man in 1638 and a different sort of a man in 1640, that was of itself a "fact" worth noting, and his reader might draw such conclusions as he wished from it, for he did not believe it to be his duty to formulate his reader's opinions or even necessarily to formulate his own.[2] He sometimes compared one man with another, or a man's ideas at one moment with his earlier opinions, but he never summarized the trend of events,

[1] "After watching him (Cromwell) narrowly through the period when his conduct was most open to attack, I have little fear that any inquiry into his later proceedings will substantially affect the conclusions at which I have arrived." Preface to *Great Civil War*, III, i (1891). *Atheneum*, 1901, I, 327.

[2] The *Quarterly Review* (April, 1898, vol. CLXXXVII, 446–448) complained of Gardiner's tendency to "associate his reader with the preparation of materials and give him not results, but processes. Everything has to appear at once, and the reader is made to be a judge as well as a learner. Hence comes a want of proportion. . . . Not that there is not much reflection and instruction in these volumes; but we have to hunt for it. . . . We lose ourselves in a crowd of inferior actors. . . . So again in the actions of the army between 1647 and 1649, we sometimes cannot see the wood for the trees. . . . Mr. Gardiner lacks the ambition or the comprehensive power to gather up the history in his hand and trace causes to their results, to throw light on the mutual influence of the Man and the Hour." This criticism was written of Gardiner's most mature work. His answer would have been, that this was exactly what he did not wish to do.

or attempted in any volume to give a clear-cut résumé of any man's character or of the causes or results of any movement. Such short cuts to learning he scorned. If a reader would continue reading, he would understand not only what the truth was, but (what was better) how it came to be. When, therefore, his critics pointed out that his comments and his facts failed to agree, or that they could not find any consistent or clear description of a man's character and achievements, or fell to loggerheads over what he had proved, Gardiner smiled wearily at their failure to comprehend what he was trying to do.[1]

In revising the earlier volumes, he altered the statement of facts to agree with new evidence he had since found, and, if the comment depended on the fact, he struck it out, but he made no other changes from his first edition, and the first edition was in most cases a faithful reproduction of his first draft. His volumes were not composed in the ordinary sense of the word. There was no sifting and pruning, correcting and altering, rewriting and unifying. In most cases, he could not refer to what he had just written because the printers had all his finished manuscript except the pages he was actually engaged upon, but, if he had had it, he would not have referred to it in order to remove inconsistencies. Absolute consistency of fact and opinion, attained by a day by day examination of the evidence, was extremely desirable, but it would naturally take care of itself. Consistency of fact and opinion, attained by carefully examining what was already written and chopping here and adding there to make it agree, was a process Gardiner abominated. It was to him nothing short of allowing your prejudices and knowledge of later events to influence your opinions. Such "comment" he thought worthless. The whole literary process was therefore consciously and consistently reduced to a minimum.

We must take care not to blame Gardiner for what he believed

[1] Gardiner once remarked in conversation, "I never remember being ruffled for a moment by a review of anything of mine. I have sometimes profited much by them, though they have oftener amused me—but then I, too, am a reviewer." *Atheneum*, 1902, I, 308.

were his virtues; at the same time his belief in their validity need not prevent us from testing their efficacy by an examination of their results. Nor is it sufficient to say that Gardiner's method could not fail, because whatever he thought or felt at that particular moment and honestly recorded was exactly what he wanted his readers to know. We have still to ask whether what he recorded was what his readers wanted to know, and here we trench on those fundamental issues, what ought a history to tell, how ought it to be told.

It is therefore evident that we have here a much subtler critical problem than was at first apparent. The fusillade of criticism left Gardiner unscathed: he changed none of his methods, rarely availed himself of the opportunity afforded by subsequent editions to alter statements objected to, and believed that time would justify him. For he felt that if his method was valid, the criticism could not be. The question for our examination, therefore, is not merely are there faults in Gardiner's history; the real issue is the seriousness of these inconsistencies and contradictions and the possibility that they will so mislead the reader as to give him an impression of the period which will be historically wrong. Like most authors, Gardiner assumed that students, and even the general public, would read his whole work or at least a considerable section of it. We must consider, however, whether a method of treatment which may be admirably adapted to the needs of the advanced student with leisure to read eighteen volumes and with a clear conception of the method itself, is equally valuable for the reader, who, with no thought of methods, may browse over a couple of hundred pages. Does not the casual student come to the historian as much for training in judgment as for instruction in facts? Indeed, we have to ask ourselves whether Gardiner's method is not in itself a preconception. Is it possible for any one to forget what he knows and place himself where a contemporary stood? If this is possible, is it desirable? Are the comments and judgments which a contemporary might have expressed of real value to us to-day? Is the process by which a contemporary would have come to an opinion essential

to-day? Even should we answer these theoretical questions in the affirmative, it remains for us to consider whether Gardiner has actually demonstrated in his *History* the possibility of writing a convincing history by this method, and then whether by it he has written as good a history as he might have written by another.

III

THE PROBLEM OF CONSISTENCY

With the possible exception of Mary Stuart, hardly a character in all English history has been more discussed than Charles I. From the time he was born, opinions about him differed; during his life-time, blood was freely shed for and against him; since his death he has been vilified and canonized, the eulogiums of Dr. Sacheverell being succeeded by the harsh judgments of Macaulay and his ilk. If there is one man whose opinions on Charles should be worthier of acceptance than another's, it is Dr. Gardiner. The briefest way of testing his views on this violent controversy is to examine his opinions on what has been for at least two centuries its moot point, the Eikon Basiliké. Dr. Gardiner declared in the ninth volume of the *History of England*, that it was a matter of indifference whether Charles or Gauden wrote that book, but he adds: "What I am concerned to affirm is that Charles's real character and views are portrayed in the book."[1] What he thought the book showed Charles to be appears in the last volume of the *Great Civil War*, where he says that the book is "a spiritual revelation of the inmost thoughts of the justest of sovereigns and the most self-denying of martyrs." His earlier idea that this was Charles's real character, he has now given up, for he goes on to say that the book "served to create an ideal image of Charles," and possessed "enough of dramatic veracity to convince all *who were prepared to believe it*, that they had before them the real thoughts of the man."[2] He then explains that this ideal view of the King secured its hold on men's imaginations because "it faithfully reproduced at least one side of Charles's character." Gardiner has thus said that this book shows us the real Charles, that it portrays an ideal Charles so unlike the King that the image could impose only on those

[1] *History*, IX, 216, note: All references are to the standard edition in eighteen volumes, London, 1884–1901.

[2] *Civil War*, IV, 325.

already prejudiced, and that is in part a faithful portrait. These two latter views are to be found on the same page. The book, as it stands, maintains then three views, of which only one can be correct.[1]

When we attempt by a more detailed inquiry to establish one view or the other as Gardiner's real opinion, we meet with still further contradictions. We should be glad to know wherein lay Charles's cardinal fault, which severed him so radically from a people, the majority of whom were probably at first more than inclined to follow him. Did he forfeit the confidence of his subjects because he *could* not understand their demands, or because he *would* not take the trouble to apprehend them? In forming a judgment of Charles's career, this is indeed a crucial issue. The Royalists have always insisted that Charles himself was not at fault: that he may have sinned through ignorance but certainly should be acquitted of intentional crime. The Parliamentarians asserted at the time, and their successors have insisted since, that Charles wilfully closed his eyes to the truth, and repeatedly denied the existence of grievances whose reality was notorious. This dispute over Charles's personal conceptions will contribute to a settlement of the debate as to where lay the blame for the Civil War, and help us to decide whether the King's obstinacy compelled his unwilling subjects to use force, or whether his recalcitrant people initiated the war them-

[1] A collected edition of the *History* in ten volumes appeared in 1883–84. It contained extensive alterations, and the first four volumes in particular were rewritten and generally rearranged. The long introductory account in volume I of earlier English history was omitted; much of the present volumes I, II, and III was written from new material brought to light by Spedding's *Life and Letters of Bacon*, and from the Hatfield Papers, to which Gardiner had meanwhile had access. No such thorough-going revision of the *Civil War* was made, though Gardiner himself carefully revised those four volumes, and the two on the *Commonwealth*. The publishers state that he constantly made slight alterations as the various editions and reprints gave him opportunity. He seems to have gone through the first sixteen volumes pretty carefully for a new edition in 1898. I have myself attempted to compare the various editions subsequent to 1883–84, but have never hit upon any difference even in pagination. These facts have a very important influence on the issue of consistency in its relation to Gardiner's method. Despite changes in point of view, he seldom corrected his earlier work, even when the inconsistencies had been pointed out at length by reviewers. We must bear these revisions in mind and realize that he believed he had made all necessary changes.

selves. It is this sort of a question that we should expect Gardiner to settle for us definitely, if not in so many words, at least by his conception of Charles.

When he came to consider the causes for the defeat of Charles in 1646, Gardiner declared that "Charles's own character was most in (*sic*) fault. His entire want of sympathetic imagination had ruined him in the day of his power by rendering him *incapable* of understanding the nation which he claimed to govern."[1] Clearly, he here exonerates Charles from intentional sin, but, writing of Charles at the time of his execution in 1649, Gardiner thought that the reason for his failure consisted chiefly "in his *absolute disregard* of the conditions of the time, and of the feelings and opinions of every class of his subjects with which he happened to disagree," in "his *persistent determination* to ignore all opinions divergent from his own, and to treat all by whom they were entertained as knaves or fools."[2] This passage can mean only one thing: that Charles did not disregard the wishes of his subjects or the conditions of the time because he did not see them or because, seeing, he failed to comprehend them, but because he deliberately chose to act in violation of them.

It may reasonably be asked, if Charles failed to understand the situation in 1646 because of congenital defects, when, and where, and how had his eyes been opened in the subsequent two years and a half so that in 1649 he could have seen what he had hitherto been incapable of seeing? Again, if Charles could not see in 1646, how had he been able to see in 1628? For in regard to the dispute over Tonnage and Poundage, Gardiner says: "His weakness lay in his utter ignorance of men, in his incapacity to subordinate that which was only desirable to that which was possible, and, above all, in his habitual disregard of that primary axiom of government that men may be led though they cannot be driven. He looked upon the whole world through a distorting lens. . . . In Charles, blindness, narrow-mindedness, and obstinacy, combined with an

[1] *Civil War*, III, 80. The italics are the writer's.
[2] *Civil War*, IV, 326.

exaggerated sense of the errors of his opponents, were laying the sure foundations of future ruin."[1] Gardiner shows us a man who was not only unable to see what was happening around him but whose deficiency in that very point was later to cause so much evil. "The wisest of men, the most decisive of facts, were no more to him than the whistling of the storm is to the man who is seated by a warm fireside. They passed him by; or, if he heeded them at all, it was only to wonder that they did not conform to his own beneficent intentions. . . . When the moment came at last for the realities of life to break through the artificial atmosphere in which he had been living, when forms unknown and unimagined before crowded on his bewildered vision, it was too late to gain knowledge, the acquisition of which had been so long deferred."[2] He has said, in brief, that in 1625 Charles could not see; that in 1628, he would not see; in 1646, again that he could not see; and in 1649, again that he would not see. He did not intend these statements to refer to Charles's attitude during the year in question, for his statements either explicitly or by a necessary implication cover Charles's whole career. If his explanation of the King's character involved so many shifts of position on Charles's part, ought we not to find somewhere a statement to that effect?

Whatever the truth may be, Charles's judgment of the situation could hardly be sound or trustworthy. Gardiner logically censures him for having trusted his own judgment instead of that of the House of Commons, when he rejected the plans of Phelips in 1625. And he adds: "It was enough for them (Charles and Buckingham) that they judged this policy to be right, and that they promised to themselves great results in the future from it."[3] Yet later Gardiner tells us on a similar question, "if he had confidence in his own judgment, his confidence was not entirely without justification. He was a shrewd critic of other men's mistakes, and usually succeeded in hitting the weak point of an opponent's argument."[4] And again:

[1] *History*, VI, 328–329.
[2] *History*, V, 318.
[3] *History*, V, 410.
[4] *History*, VIII, 299.

"He no less honestly believed that the existing order was good for England as well as for himself." [1] Charles's conception of government "was that of a wise prince constantly interfering to check the madness of the people." [2] If there was any justification for his views, if he honestly believed he was doing right, certainly he should be absolved from all charges of wilful blindness, and from all charges of obstinate refusal to do what he knew in his heart was right.

A third explanation of Charles's incapacity is suggested in the narrative of the year 1638. "From whatever side Charles's conduct is approached, the result is the same. He failed because morally, intellectually, and politically he was isolated in the midst of his generation." [3] Again, in 1642: "After all, there is something unreal in these arguments on both sides from law and precedent. . . . It was a question of sovereignty and no judges, whether they sat in the House of Lords or in Westminster Hall, could be trusted to decide that. Nor was that all. Behind the question of sovereignty rose a twofold conception of life—religious, ecclesiastical and political—which divided Charles from the Commons by a gulf which it was impossible to bridge over. To each of the parties in the strife the other seemed bent on imposing its ideas upon the whole nation by force or fraud." [4] "Both sides, in short, were driven by their antecedents to misunderstand the fundamental conditions of government." [5] This conception of the difficulty between Charles and his people removes it from the petty sphere of personalities and places it among the clashes inevitably caused by a difference of natural development. The difficulty was so fundamental that the mere application of thought, logic, and evidence could not be sufficient to establish an understanding.

Was Charles a despot or a tyrant? If his acts arose from incapacity, from isolation, or from honest blundering, no; if

[1] *History*, X, 133.
[2] *Civil War*, IV, 327, and *History*, VIII, 276.
[3] *History*, VIII, 299. See also *History*, VII, 138.
[4] *History*, X, 145.
[5] *History*, X, 40.

from wilful blundering, yes. Gardiner seems to record himself on both sides. Charles "bade the nation to keep silence whilst he moulded it into the shape which seemed best to himself." [1] He wished to possess "the authority of a king ruling in accordance with his own inscrutable counsels, whilst the English people was to wait patiently for the decision of its master." [2] What is despotism if not the refusal to the people of all voice in the government? What is tyranny if not the deliberate disregard of all their wishes? And yet twenty pages further on, Gardiner explicitly states: Charles "had no wish to erect a despotism, to do injustice, or to heap up wealth at the expense of his subjects." [3]

Next to the character of Charles, the policy of Strafford is in Gardiner's eyes the chief immediate cause of the Long Parliament. The character of this policy and the reason for its evil effects were clear. "He was in the truest sense the most dangerous enemy of parliaments. He attempted to maintain the Elizabethan constitution, long after it was possible to maintain it." [4] While condemning his view of the constitution, Gardiner thinks the penalty he paid for his attempted maintenance of it too severe; "monstrous as his conception of the constitution was, it was hardly one to be treated as punishable by death." [5] Later he adds this further description of it: "Strafford had offered his brain and arm to establish a system which would have been the negation of political liberty." [6] Logically, therefore, we conclude that Gardiner thought the Elizabethan constitution was "monstrous" and inimical to political liberty. [7]

[1] *History*, VII, 79. See also *idem*, 43.

[2] *History*, VIII, 276.

[3] *History*, VIII, 299.

[4] *History*, IX, 370.

[5] *History*, IX, 322. It is quite probable that Gardiner intended this sentence as an expression of the ideas of Strafford's auditors, and not an expression of his own. But there can be little doubt that he concurred in the idea.

[6] *Civil War*, II, 100.

[7] Nothing perhaps is simpler than to patch together disjointed statements and produce remarkable conclusions. Nothing is quite so difficult as to convince the reader that this is not a critic's method of procedure. If the reader be at all critical himself, he will here begin to open his Gardiner and read the context for himself:

There are few constrasts which writers on English history, Dr. Gardiner included, have been fonder of drawing than one between the masterful advocate of Thorough and the stalwart leader of the Long Parliament. It has been generally conceded, too, that their plans for the administration of England in 1640 were mutually contradictory. Hence, where Strafford was seeking to maintain the tottering Elizabethan constitution, we should expect to find Pym advocating its destruction or at least its reform. Yet we find that Pym's work was to Gardiner's thinking the replacing of the Elizabethan constitution. "If Pym could not in the face of Charles call back into existence the whole of the Elizabethan constitution, he was at least standing up in defence of its nobler and better part." [1] Were the policies and ideas of Pym and of Strafford then identical? Did both look to the Elizabethan constitution as a model? How then could their policies be so antagonistic, the one looking to the destruction of the constitution and the other towards its making; the ideas of the one tending to the overthrow of parliamentary liberty, and the ideas of the other to its preservation? How can Dr. Gardiner consistently declare, as he does a few lines below, "it was the voice of Pym and not the voice of Strafford which appealed to the memories of the great England of the past, and which reached across the gulf of time to do, as Eliot would have said, the work of posterity and to call into being the greater England of the future"?

Moreover, why was Strafford trying to *maintain* the Elizabethan constitution in existence at the same moment when Pym was trying *to call it back* into existence? Before Strafford's efforts to maintain it can be necessary, some hostile party must be attempting its overthrow. This is Pym's party, which, by necessary implication, Gardiner represents in one passage as attacking what he has declared in another it is striving to replace. Before Pym could *replace* it, it must have disappeared:

nothing can really replace the evidence of his own eyes. That some few of these quotations will not bear to others quite the same significance they have to me, is to be expected. Were it not for the support of Spedding, Ranke, and the influential reviews, I should hardly have the courage to believe my own results.

[1] *History*, IX, 110.

was this the work of Charles and Strafford? In addition, how could Pym earn the thanks of posterity by replacing the "monstrous conception" of an effete government which Gardiner apparently declares the Elizabethan constitution to have been? How could he successfully uphold what Strafford found it impossible longer to maintain? In the same volume these words are quoted from Charles's speech to the Commons in 1641: "All matters of religion and government" shall be reduced to "what they were in the purest times of Queen Elizabeth's days." [1] Why then did not Charles offer all that Pym desired —the Elizabethan constitution?

Nor is this by any means the whole tangle. In the following volume, we learn that both Strafford and Pym were traitors to this Elizabethan constitution which the one was endeavoring to maintain and the other to replace in the same state. "There can be no doubt that, if by the fundamental laws of England was meant that constitutional arrangement which had prevailed in the days of Elizabeth, they (Pym, Vane, etc.) were guilty of treason at least as much as Strafford had been guilty. If he had done his best to reduce parliaments to a cipher, they had done their best to reduce the Royal authority to a cipher. The true defense of both Strafford and Pym was that the old constitution had broken down." [2] This same idea—that Strafford was a traitor to the Elizabethan constitution—Gardiner had developed at length when he first described Thorough in 1637.[3] It may well be queried, what sort of an idea had Gardiner of this Elizabethan constitution which he has declared Strafford was trying to maintain and in so doing was constructing a system inimical to political liberty; which Pym was trying to replace, thus founding parliamentary power on a secure basis for the first time? How could Strafford defend himself from a charge of treason to the older constitution by demonstrating that it had broken down? How could Pym be England's savior by restoring a shattered constitution long since out of

[1] *History*, IX, 267.
[2] *History*, X, 129.
[3] *History*, VIII, 216.

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harmony with the desires of the nation? Lastly, how could Strafford and Pym both defend themselves by the same plea for a treason which consisted in the denial of their own ideals?

And which of all these contradictory theories shall we understand Gardiner to intend when we read that Cromwell was in truth "the heir and successor of Strafford—like Strafford throwing himself open to the charge of apostasy and like Strafford shifting his instruments and his political combinations for the sake of the people whom he aimed at governing for their best advantage." [1] Was Cromwell's conception of the constitution "monstrous;" was his work "the negation of political liberty;" was he striving to maintain the Elizabethan constitution; was he too a traitor?

What Gardiner meant by this "Elizabethan constitution" is by no means clear, despite the frequency with which he mentions it. Ordinarily, he seems to have in mind as its basic idea, that the Crown should carefully execute the national will, and he finds in this representative character of the Tudor sovereigns the secret of their authority. "The steady determination that a king who spoke for himself and acted for himself should not be permitted to reign was part of that mass of custom and opinion, which, varying in detail from age to age, but animated in every age by the same spirit, is, for brevity's sake, called the English constitution. To the spirit of this constitution the Tudor princes had, even in their most arbitrary moods, sedulously conformed. No rulers have ever been so careful to watch the temper of the nation as were Henry VIII and Elizabeth." With this he contrasts Charles's policy: "that the King was established by God Himself, to think and act in opposition to the thoughts and acts which the nation deliberately chose to think best, was a new thing in England." [2] The consequence of such ideas was that "the representative monarchy of Henry VIII and Elizabeth would cease to be. . . . In its stead was to be raised the authority of a king ruling in accordance with his own inscrutable counsels." [3] "No wonder men took alarm at so portentous a doctrine." [4]

[1] *Commonwealth and Protectorate*, III, 253–254.
[2] *History*, VI, 314–315.
[3] *History*, VIII, 276. See also I, p. 11, 33, IX, 145.
[4] *History*, VIII, 280.

If this representative character, this responsibility of the Crown to the nation, was the basis of the Elizabethan constitution, how could it be also true that Eliot "was lightly dashing into ruin the whole scaffolding upon which the Tudor monarchy had rested—the responsibility of ministers to the sovereign alone?" [1] It is of course perfectly possible to harmonize these statements by assuming that the minister was responsible to the King and the King to the people. But if the King was to do what the people wished, and was to see that his minister did the same, how was the essence of the Tudor system destroyed when the House of Commons also insisted that the minister should do what the people wished? By transferring the responsibility of ministers from the Crown to the House of Commons, Eliot could destroy the basis of the Tudor monarchy only by taking from Charles in this fashion his right to order the minister to do something contrary to the will of the people. Moreover, that is exactly the situation on which Gardiner is commenting. The responsibility of ministers to the Crown is of little consequence as long as the Crown itself is assumed to be responsible to the people; it becomes of transcendent importance the moment we assume that the Crown is not responsible to the people.

Gardiner has said that Charles's idea of personal government was new, utterly different from the Tudor conception of government as representative monarchy. He is willing to go even further: "Whatever justification might be put forth, Charles's assumption of power had been clearly revolutionary." [2] Yet thirty pages before he admitted that "as a matter of fact no man then (1628) living could remember the time when the discretionary power which Charles claimed had not been exercised by the Crown." [3] "The traditions of the constitution forbade him (Charles) from claiming to be the source of law. Yet the traditions of the constitution justified him in claiming

[1] *History*, VI, 104.

[2] *History*, VI, 314. The power Charles assumed must be that mentioned by the Petition of Right, and the Remonstrance or that advocated by Manwaring; in any case, the fundamentals of Charles's policy.

[3] *History*, VI, 285. See also IX, 127.

the supreme regulative power in the nation." [1] Either, then, Gardiner has contradicted himself by declaring that the selfsame discretionary power is both new and old, both revolutionary and legal, or he has changed his idea of what Charles's claims meant. The discretionary powers referred to were none less than those taken from the Crown by the Petition of Right. It was by their exercise that Charles was attempting the overthrow of "the representative monarchy of Henry VIII and Elizabeth."

Later, however, we learn of Charles's ideas: that "when he spoke of monarchy he meant the monarchy of Henry VIII and Elizabeth, not the monarchy of William III and Victoria. He was hankering after the restoration of the system which Laud had praised and which Strafford had supported." [2] Charles, too, was then supporting the Elizabethan constitution; in his discretionary power, which Eliot and Pym were trying to overthrow, lay its very kernel. Moreover, the chief difficulty between him and his people was that he could not be trusted to exercise his undoubted powers. "Charles, in short, could not be trusted with powers which had been conceded to Henry and Elizabeth." [3] The trouble, then, seems to be, not that the King claims new powers, but that he cannot be trusted faithfully to execute the old.

Thus we find Strafford and Pym, Charles and Cromwell, Eliot and Buckingham all enlisted in the support of the Elizabethan constitution and yet one and all striving to defeat each other's plans. Were they then wrangling about nothing? Did the hope of personal aggrandizement animate Pym and Cromwell and bring Strafford and Charles to the block? Yet, on none of them had the mantle of Elizabeth fallen. "The House of Commons was the heir of the Tudor monarchy and would be the depository of those extraordinary powers which Charles had forfeited the right to exercise." [4] To which of the Tudor monarchies he has already described, does Gardiner here refer—

[1] *History*, VII, 96.
[2] *Civil War*, III, 190 (1646).
[3] *History*, VI, 268.
[4] *History*, VI, 284.

the representative monarchy, the "monstrous conception" of Strafford, the responsibility of ministers which Eliot was destroying, or the discretionary powers which antedated the memory of men?

We should be saved most of this perplexity if Gardiner had expressed a clear idea of the mediæval constitution; from that we could have corrected these loose phrases about the Elizabethan constitution. But of the gist of the Mediæval constitution he has also three ideas: "The English constitution had grown up round the belief that the king was in very truth the center of the national life." [1] Less than two hundred pages further on he espouses the opposite view: "The root of the old constitution was the responsibility of the Crown to the nation." [2] To increase our perplexity in a later volume he propounds a third view: "In England precedents and maxims had grown up round the double center of Parliament and the king, and something at least might be quoted on either side." [3] There can be no doubt that both the "Elizabethan constitution" and the English constitution possessed certain aspects, which tell strongly in favor of the royal pretensions and certain other aspects, quite as well marked, which might be and were quoted in support of the parliamentary contentions. In fact, had there not been right on both sides, precedent and law as well as logic and expediency, so serious a disagreement would hardly have arisen. It is thus easy to show that all of Gardiner's points of view possess precedent in their favor and that they are all phases of the Tudor constitution. Yet, the whole is not one of its parts, nor is one part equivalent to the whole. To use, therefore, the single phrase, "Elizabethan constitution," without qualification; indeed, to state that any one of these ideas was *the* Elizabethan constitution is distinctly misleading, if not, from the point of view of strict legal interpretation, wholly wrong. Certainly a slightly different terminology would have made room for all these conceptions, and the two thorough revisions of the work as a whole given it by Gardiner

[1] *History*, VI, 131.
[2] *History*, VI, 314.
[3] *History*, X, 133.

himself would have furnished an opportunity for the insertion of qualifying words or for the excision or correction of these conflicting statements. But as the work stands, it can hardly be maintained that Gardiner has "an" opinion on any one of these extremely significant and much controverted points. He has expressed several opinions, not once only, but each many times; not in a regular order of development, but first one and then the other. If this usage was confined to a few volumes, it would be less serious; but it appears in the whole eighteen, the *Civil War* and *Protectorate* as well as the *History*. It affects, furthermore, not only his statement of most constitutional issues, but also his idea of the policies of the more important characters.

Next to the policy of Charles and Thorough as evolved by Strafford, Gardiner places as a cause of the Revolution Laud's ecclesiastical policy. The idea generally accepted has been that the ill-timed measures of Laud were largely responsible for the actual outbreak. With this idea Gardiner's conception of him seems to agree. Laud, thought Gardiner, writing of him in 1633, was "one of the worst rulers who could at this crisis have been imposed upon the English Church. . . . The remedy for the diseases of the time, in short, was to be sought in liberty, and of the value of liberty Laud was ignorant."[1] Much the same opinion is to be found under the year 1611. "His thorough belief in the unbounded efficacy of external forms and institutions, combined with his complete ignorance of human nature, would be sufficient to goad to madness any nation which might be subjected to his control."[2] But after the narrative of his execution, we read: "His nobler aims were too much in accordance with the needs of his age to be altogether baffled. It is little that every parish church in the land still—two centuries and a half after the years in which he was at the height of power—presents a spectacle which realizes his hopes. It is far more that his refusal to submit his mind to the dogmatism of Puritanism, and his appeal to the cultivated intelligence for the solution of religious problems has received

[1] *History*, VII, 301.
[2] *History*, II, 126.

an ever increasing response, even in regions in which his memory is devoted to contemptuous obloquy."[1] Can the aims of any man, fit "to goad a nation to madness" be accurately described as either "noble" or as "too much in accordance with the needs of his age to be altogether baffled?" Could a man possessing noble aims, in accord with the needs of the time, be the worst possible ruler for the Church? It is true that Dr. Gardiner is quite uniformly hostile to Laud as a statesman, and could we only believe that all his derogatory statements applied to Laud, the statesman, and his praise to Laud, the churchman, the problem would be much nearer solution.

In understanding Laud's policy and in censuring Charles's blindness to the depth of the religious split in the nation, a most important factor is the strength and influence of Puritanism. That its influence was considerable, all must readily admit, but we should like Gardiner to tell us his opinion of the relative strength of Churchmen and Puritans. In 1638 Gardiner declares the Puritans clearly in the minority. "The feeling of irritation against Laud's meddlesome interference with habitual usage was indeed almost universal; but Puritanism was, after all, the creed only of a minority."[2] Here we see Puritanism an important, but by no means a controlling factor in the situation. In October, 1641, Gardiner writes: "Puritanism was still a mighty force in England, and it was not for Charles to hope permanently to exclude it from the Church, any more than it was for Pym to hope to make it permanently dominant in the Church."[3] Here Puritanism is a controlling element but far from predominant, for it can neither be excluded nor itself exclude others from control. Yet Gardiner states nine months later, that "above all, it was Puritanism which gave to those whose energies were most self-centered the power which always follows upon submission to law. Puritanism not only formed the strength of the opposition to Charles, but the strength of England itself."[4]

[1] *Civil War*, II, 108.
[2] *History*, VIII, 302.
[3] *History*, X, 40.
[4] *Civil War*, I, 9.

From a clear minority to become in nine months possessed of the strength of England itself, was surely a growth worthy of some comment from its historian; indeed, if true, it was a growth so rapid as to require some explanation. Has not Gardiner here confused the religious party of 1638 with the political party of 1642, and assumed that the benches of the Commons and the ranks of Essex's army were filled by doctrinal Puritans and by them alone? If so, the sudden increase in numbers is explained, but it involves the use of the word "Puritan" in two different senses to cover two very dissimilar conceptions of the party. On the other hand, how can either conception be harmonized with this comparison of the Royalist and Parliamentary parties in October, 1641, three lines below the description of Puritanism as a mighty force? "Charles believed that an existing (religious) system could be maintained in the face of widely-felt dissatisfaction. Pym believed that a new (religious) system could be introduced by a mere Parliamentary majority in the face of a dissatisfaction *equally* widely felt." If Puritanism was "the strength of England itself," how could the dissatisfaction with it equal that felt with Charles and the Church?

IV

GARDINER'S IDEA OF THE ENGLISH NATION

If Gardiner laid more stress upon one point than upon another, regarding this revolution of 1640, it was upon its national character, upon the extent to which it was the direct work of the "English nation." On the whole, the idea of Charles and his statesmen most frequently emphasized is their disregard of the national feelings. Leaving out of consideration the reasons why Charles, Strafford, and Laud disregarded this national opinion—whether from personal incapacity, or from wilful stubbornness, or from a difference of mental attitude due to fundamentally diverse conditions developing two mutually antagonistic sections of the nation—their failure to follow it was to Gardiner's thinking the prime reason for the outbreak. In fact, the whole issue between Charles and his people, during the war as before, was this issue of confidence.

Hence, the character and type of this "nation" which the Long Parliament "represents," is in very truth the premise underlying every judgment Gardiner or any one else forms on the period, on the characters, or on their policies. If a nation existed in 1640 consciously expressing through the mouths of St. John and Pym "its deliberate thoughts," [1] the policy of Charles and Strafford will inevitably become an attempt to oppose the definite ideas about the state and its policy which the majority of the nation had. On the other hand, if we should find Charles justified in his belief that Hampden and Pym had behind them, instead of a united nation "conscious of the universality of its displeasure," only a small band of discontented gentlemen and lawyers, our judgment upon Charles—and also upon Pym—would be different. Such, indeed, is the historical issue: Pym claimed that he spoke for England; Charles denied it, and insisted, as had Henry VIII and Elizabeth, that he represented the English nation better than did the House of

[1] *History*, VI, 315.

Commons. Nor was this a new position. James and Charles had always steadfastly maintained that they, as well as the House of Commons, had a right to decide what it was the people wanted. The mere fact that both had continued to quarrel with the House for forty years was to them no proof at all that they were disagreeing with the nation, for they denied from the very first that the House of Commons represented the nation in any complete or proper way.

The existence of an English nation capable of intelligent political observation, the evidence of its clear thinking and conscious decisions, its ability to carry them into effect through Parliament, not only in 1640, but in the generation preceding and following that period, are the momentous issues requiring elucidation. So Gardiner felt. "If I have judged rightly the first fourteen months of the Long Parliament, I am likely to judge rightly the future course of the parties which then came into collision. If I have erred seriously here, I am not likely to find anything worth saying hereafter.[1] . . . It is not merely that the subject matter is one which, even at the present day, strangely evokes the divergent sympathies and passions of Englishmen—but that even the richest materials fail to yield all that the historian requires; again and again, however the frontier of knowledge may be advanced, the enquirer is confronted by darkness into which he cannot penetrate." [2]

Let us turn at once to Gardiner's account of the year 1640. There we ought to find his mature opinion of "the nation," for when those pages were written he had been laboring on the period for twenty years. Nor is the connotation of the following sentence doubtful. "Against this (Strafford's plan) the great national party, with Pym at its head, now numbering the vast majority of educated Englishmen, raised its voice." [3] Clearly we may infer that in May, 1640, immediately after the dissolution of the Short Parliament, Gardiner believed that a national party existed, with the greater part of educated England enrolled in its ranks, already provided with a leader, and already

[1] Preface to *Fall of the Monarchy of Charles I*, 1882.
[2] *Ibid.*
[3] *History*, IX, 127.

conscious of its own existence and of its mission. The creation of this consciousness of national feeling had, in fact, been the chief work of the Short Parliament. "It made England conscious of the universality of its displeasure. . . . The chorus of complaint sounded louder when it was echoed from Cornwall to Northumberland than when it seemed no more than a local outcry." [1]

Yet in writing of September, 1640, Gardiner tells us that "the *echo* of their debates (in the House) had hardly reached the popular ear. . . . What was needed now was to bring the House of Commons into living connection with the wave of feeling which tossed outside its walls. In the Short Parliament, Pym had stood forth as the leader of the Commons. He was now to stand forth as the popular agitator as well." [2] Why then, and when, had this union of nation and Commons been lost in the short space of three months? Unquestionably Gardiner's evidence proves that the national feeling progressed during this particular summer and increased not only in intensity but in openness of expression. Nor can this be well disputed in face of the fact that the notable result of this summer's work was the summons of the Long Parliament where met a much more excited and radical body of men. And yet, we learn that Pym, the national leader in May, is in September "now to stand forth," apparently for the first time, as popular leader. Strange as this is, it seems incredible that Gardiner could write of a date nine months later, in May, 1641: "Nor was Pym's name as yet one to conjure with. Inside the House he was becoming better known every day. Outside he was scarcely more than one of a multitude." "Secret cabals in the Court and in the army must be met by an appeal to the general feeling of the nation." [3] Is this the national leader of the year previous? Where has his prestige gone; what has happened to rob him of his place; who has supplanted him? Why is an appeal to the general feeling of the nation now to be first made when as a matter of fact the awakened intelligence of the nation

[1] *History*, IX, 118.
[2] *History*, IX, 202.
[3] *History*, IX, 352.

had been one of the causes of the revolution? Was the nation, capable of detecting the minute errors of Buckingham and Strafford, incapable of understanding the critical situation of May, 1641, and was exhortation needed to rouse it to action?

In a passage written to contrast the policies of Charles and Pym in October, 1641, Gardiner seems even to assert that Pym was depending solely on the House of Commons and was not paying much attention to the nation. "Charles believed that an existing system could be maintained in the face of widely felt dissatisfaction. Pym believed that a new system could be introduced by a mere Parliamentary majority in the face of a dissatisfaction *equally* widely felt. The one maintained that the House of Commons could effect no change without the assent of the King and the House of Lords. The other exalted the authority of an elected assembly *whilst forgetting to inquire whether its decisions were in conformity with the actual necessities of the nation.*" [1]

How could Pym be heading a party in 1640 in which the vast majority of the nation was enrolled, when one year later before the Irish Rebellion, the Grand Remonstrance, and the quarrel with Charles had come sharply to align the parties, the dissatisfaction with his scheme was as great as that with Charles's policy? If, indeed, he had lost his party since 1640, if he had started with the nation at his back and then it had drawn away from him, something should have been said to indicate this fact and explain the reasons for a desertion whose consequences must have been momentous. Three months later, Gardiner shows us "King Pym indeed," on the day in January, 1642, when, after the flight of Charles, the Houses and the city triumphantly escorted the Five Members to Westminster. "He was no longer the chief of a party, for he had the nation at his back. Both Houses of Parliament, now united, followed his bidding." [2]

Certainly, if all these statements be correct, Pym and the national party had been changing with great rapidity. Yet, making all possible allowances for a shifting of forces, it seems hardly credible that Pym could have been the leader of any

[1] *History*, X, 40. The italics are not in the original.
[2] *History*, X, 151.

party comprising the vast majority of educated England in May, 1640, and yet have been unknown outside the House a whole year later, after he had borne in that very year the leading part in the most spectacular series of events two centuries of constitutional history had seen. Were the five hundred odd members of the House the vast majority of educated Englishmen? Furthermore, if he had ever had the majority of the nation behind him, it can hardly be correct to say of him in January, 1642, "he was *no longer* the chief of a party, for he had the nation at his back." Moreover, is not the next sentence extraordinary in its implication? "Both Houses of Parliament, now united, followed his bidding." Did Gardiner mean that the movement of forces, which made Pym a national instead of a party leader, was the alliance of the Houses against Charles produced by his attempting to arrest the Five Members? If Pym headed a national party in May, 1640, *after* the dissolution of Parliament and therefore outside Parliament, whither had it gone? Clearly, at one time we see a nation and a national party, expressing national feeling *outside* Parliament, and at another we find Parliament seemingly treated as the nation. Gardiner seems to connote this same idea in commenting upon the dispute between the judges and the clergy in 1605 over the *Articuli Cleri*. "It is this appeal to Parliament which raises the dispute from a quarrel about jurisdiction to the dignity of a constitutional event. Whilst the clergy were content to rely upon the Sovereign, the interpreters of the law entered boldly into alliance with the nation." [1]

An attempt to solve this difficulty by reference to earlier and later passages only increases the confusion. Gardiner has explicitly said that in September, 1640, the House of Commons needed to be brought "into living connection with the wave of feeling which tossed outside its walls," [2] or, as it might be fairly rephrased, the will of the House and the will of the nation must be made the same, or through the House the nation should assume the direction of policy. Yet he elsewhere informs us that practically during all previous history, the national desire

[1] *History*, II, 36.
[2] *History*, IX, 202.

regarding policy had not only been expressed but followed by both House and King. The work of Edward I had proved that, "however necessary a strong royal authority still was, the duty of directing the course of progress could be safely entrusted to the nation itself." [1] Under Henry VIII, "the general tone of the House was the tone of the nation outside." [2] Indeed, declares Dr. Gardiner, "the main cause (of the rise of Parliament) lay in the success with which England itself had grown up into a harmonious civilization, so that its Parliament was the true representative of a united nation, and not a mere arena in which contending factions might display their strength. . . . The position, which was occupied by the House of Commons at the close of the reign of Elizabeth, was due to the complete harmony in which it stood with the feelings and even with the prejudices of all classes of the people." [3]

Moreover, how could Parliament, the "true representative of a united nation" in 1603, be in 1641 "nothing of the kind." Under the latter date, before the execution of Strafford had made clear the depth of the breach between the King and the House, Gardiner writes: "The House of Commons is with us itself the center of the national organization to which the whole country instinctively rallies. In 1641, it was nothing of the kind. All the habits of men led them to look to the King for guidance. Parliaments were but bodies meeting at rare intervals, doing important work and then vanishing away." [4]

Both the *History of England* and the *History of the Great Civil War* abound with phrases assuming that at all times, even when Parliament was not sitting, there existed "a nation," keen, alert, watching the situation, carefully formulating an opinion which in the next Parliament it would *express*. "That the King was established by God Himself to think and act in opposition to the thoughts and acts *which the nation deliberately chose to think best* was a new thing in England." [5] Surely this

[1] *History*, I, 1.
[2] *History*, I, 6, 7.
[3] *History*, I, 159, 160.
[4] *History*, IX, 352.
[5] *History*, VI, 315.

sentence assumes that an English nation had been deliberately thinking for some time. The same idea is expressed when Gardiner declares "that the root of the old constitution was the responsibility of the Crown to the nation." [1] "If Buckingham had raised himself in James's favor by the reforms to which he had lent his countenance (1619), he had gained no credit with the nation." [2] "Great as was the influence of wealthy landowners in returning members to the House, those members had no wish to be anything else than the representatives of the nation." [3] Charles "did not appeal to the nation *against* the House of Commons." [4] "Wentworth therefore would appeal to the nation outside the House of Commons." [5] This is parliamentary language such as might be found in to-day's *Times*, and it depends for its validity on the assumption that "a nation," accustomed to political thinking, cognizant of even the details of the situation, and capable of forming and expressing a judgment upon them, existed in England in the seventeenth century.[6] If this is true, it is a cardinal fact of the very first importance.

Still turning over the pages of these same volumes for a solution of our problem, we come across an utterly different idea of the "nation" and its relation to the House of Commons. Indeed, we find Gardiner querying whether a nation, in the parliamentary sense, existed in 1629. "Was there indeed a nation behind the House of Commons, to which Wentworth could give an articulate voice or had he miscalculated his strength and overestimated his power of raising the inert masses to a level with the effective strength of the nation,[7] in the same way as he

[1] *History*, VI, 314.

[2] *History*, III, 211. See also *History*, II, 36, 228, 230, 278.

[3] *History*, VI, 328 (1628).

[4] *History*, VII, 79.

[5] *History*, VII, 136. See also IX, 145, 246.

[6] The death of the poor stupid Queen is judged by its effect on national opinion. "The Queen's death was of no political importance. . . . By the mass of the nation she was as completely forgotten as though she had never lived." *History*, III, 294. Both statements are probably correct, but why couple them together?

[7] Do not these words connote another conception still? A political "nation" composed of the educated and capable governing the "inert masses?" How large a proportion of England was capable, and how large, "inert?"

undervalued the worth of those religious and moral ideas to which the political classes clung so tenaciously? This was the secret of the future." [1] While in most places we find the question answered in the affirmative, a negative answer is also clear. "If the preponderance in the constitution *was to pass* from the King to the House of Commons, many a compensating change would be needed before the great alteration could be safely effected. Above all, opinion must be set free to an extent of which Pym and Coke never dreamed, if it were only that the nation might itself receive that enlightenment which had in old times been thought necessary for the sovereign." [2] Not only does this imply that "the nation" in 1628 was incapable of rendering an adequate opinion but that time alone could render it capable.

One of the obstacles was lack of communication. "In the seventeenth century, when Parliament was not sitting, our ancestors were a divided people. . . . No newspapers sped over the land, forming and echoing a national opinion from the Cheviots to the Land's End. . . . There was, therefore, little of that mutual confidence—none of that sense of dependence upon trusted leaders, which gives unity of purpose and calm reliance to an eager and expectant nation." [3] Is this the nation with which Coke had formed an alliance in 1605, and whose ideas, Buckingham, Charles, Laud, and Strafford had so sorely outraged? Is this the "great national party, with Pym at its head, now numbering the vast majority of educated Englishmen," whose voice we hear raised in protest a few weeks later? Is it not rather that nation whose ear the debates of the Commons had not reached and to whom Pym was unknown?

In the *History of the Great Civil War* and in the *Commonwealth and Protectorate* we find a more definite conception of the "Eng-

[1] *History*, VII, 137.

[2] *History*, VI, 329.

[3] *History*, IX, 78–79. The reader will already have noticed the range of these quotations, which have been selected from the large number available, to show the amount of confusion in the same volume, as well as between the volumes of the *History of England*. The next few pages will introduce examples from the later volumes.

lish Nation," a categorical negative to the question which Gardiner asks as to its existence. In September, 1654, Cromwell came clearly to the parting of the ways: the form of the state had to be remodelled and to that end the "Instrument of Government" was under discussion. His idea of the Constitution Oliver declared roundly to the House and defined what he called the fundamentals: the government to be by a single person and Parliament; Parliament not to be perpetual; liberty of conscience; and neither Protector nor Parliament to have absolute power over the militia. "In protesting against the bonds of a written constitution, on which the nation had never been consulted," comments Gardiner, "the Bradshaws and Hazleriggs were doing, as Eliot would have said, the business of posterity. Oliver was no less serving the coming generations in insisting on conditions without which Parliamentary government is a vain show. It was one thing for Oliver to point in the right direction; it was another thing to give effect to his desires. The *real* obstacle in his way, though he took little count of it, was that *the nation, or even the intellectually active part of it, had not been educated in political thought.*" [1] Gardiner goes even farther in describing the reasons for the failure of Ireton's ideas. He "was mainly inspired by a desire to remodel the institutions of the country in order to safeguard popular government from royal or Parliamentary usurpation. Cromwell cared little for constitutional forms, whilst Ireton thoroughly realized their importance. . . Ireton seemed to have provided for everything, but there was one thing which he had not foreseen, *the absolute refusal of the English people for many a long year*, to take up the high position which he had marked out for it." [2]

Gardiner thought it was well nigh impossible in 1649 to discover what the ideas of the nation were. "It is at all times hard to discover what the wishes of a nation really are, and least of all can this be done amidst the fears and passions of a revo-

[1] *Commonwealth and Protectorate*, III, 193.

[2] *Civil War*, III, 295, 296. Would such a nation as Gardiner has predicated in the *History* have absolutely refused Ireton's modified democracy? It is possible to contend that here we are stretching Gardiner's meaning a little to make a point; for of course a people devoted to constitutional monarchy has balked at democracy.

lutionary struggle. Only after long years does a nation make clear its definite resolve."[1] The measures of the Commonwealth in enforcing the oath of fidelity to Parliament minus King and Lords were, says Gardiner, sufficiently severe "to secure its acceptance by that vast majority to which all forms of government are equal if only they provide for the security of life and property."[2] Was this "vast majority" composed of the men who judged Buckingham and Laud or were the latter a minority? In 1652 Cromwell's displeasure with the Rump vented itself in a conversation with Whitelocke, "a fair representative of the well-meaning but somewhat stolid position of the prosperous classes, whose inertia every statesman in his heart despises."[3] In the earlier volumes this view also has its place. We learn that in 1641, "the greater part of the nobility and gentry of England were inclined to look with contempt and loathing upon the claims of yeomen and handicraftsmen to throw off the yoke of authority."[4] "It is hard in these days to keep before our eyes the mass of ignorance and untaught brutality on which the society of the seventeenth century rested."[5] "Much as the intelligent classes were dissatisfied with the course which Charles had taken, not even they, and still less the bulk of the nation, were as yet prepared to defy the King."[6] Apparently the bulk of the nation was utterly ignorant!

Is this the nation whose deliberate thoughts, mirrored forth in a true representative Parliament, Charles had wilfully disregarded? Is this people without political education even among the intellectual classes, the "vast national party" comprising the majority of educated Englishmen, which Pym led in 1640? Is this "mass of ignorance and untaught brutality," this vast majority to whom all forms of government are equal which protect life and property, this inert and stolid well-to-do class which the statesman despises, is this the nation whose outraged

[1] *Civil War*, IV, 326.
[2] *Commonwealth and Protectorate*, I, 246.
[3] *Ibid.*, II, 229.
[4] *History*, X, 13.
[5] *History*, X, 146.
[6] *History*, VII, 122.

conscience impelled it to cast Charles from his throne? Is the Parliament, which represented "all classes of the people" in "complete harmony," that where the nobility and gentry looked "with contempt and loathing upon the claims of yeomen and handicraftsman to throw off the yoke of authority?" A national conscience uneducated in political affairs! A nation, whose deliberate thoughts since the time of Edward I had shaped its development, not only afraid to assume control of its own affairs but utterly declining to accept the democratic idea of its own sovereignty! And this, too, that nation to which the founders of the English Constitution had made the King responsible!

This confusion of ideas in Gardiner's mind as to what "the nation" was, is fraught with serious consequences. On this idea of the nation depends not only the majority of his judgments and comments but his conception of the period itself. The idea most frequently advanced regarding Charles in the eighteen volumes is unquestionably the fact that he disregarded the wishes of his people, and all Gardiner's attempts to expound his character are meant to explain why he did so. At most crises, Gardiner blames him for claiming to "rule as seems right in his own eyes without taking the national conscience into account." [1] Yet if the bulk of the nation was too ignorant to understand political affairs, and if the majority of educated men were without training in political thought and indifferent to politics, was Charles so fundamentally at fault for refusing to accept their opinions? If such was the nation, is it likely that it possessed any well-defined opinion on the issues where Charles is supposed to have blundered so fatally?

Moreover, the very principle which condemns Charles in Gardiner's eyes exonerates Cromwell. To modern thinkers, "the restrictions of the Instrument (of Government) need only to be mentioned to be condemned. It is only fair to remember that the statesmen of the Protectorate held no such theories. What they sought was to strengthen, by the help of a larger body than the Council, a system of government which in their

[1] *History*, VII, 43; VIII, 276, etc.

eyes deserved to be maintained *whether the nation approved of it or not.*" [1] Yet Charles at his worst was claiming no more. "It was enough for them (Charles and Buckingham) that they judged this policy to be right, and that they promised to themselves great results in the future from it."[2] Charles "honestly believed that Pym and his associates were engaged in an attempt to alter by force the existing order of things, and he no less honestly believed that the existing order was good for England as well as for himself."[3] The Commons themselves were doing the same.[4]

Surely, the logic and sympathy that will support the new excise, the "Instrument of Government," and the Major Generals in face of active "national" disapproval, might have supported ship-money, "Thorough," and an Irish army. Strafford and Cromwell alike refused to believe in the intelligence and capacity of the nation for government: each believed that his own personal solution of the problem was for the good of England.[5] Shall we then call Cromwell a hero, and Strafford the enemy of liberty? Gardiner thus restates "the highest message of political Puritanism—that the good and wise were alone fit to bear the burden of the world." [6] Wherein, then, do Laud and Milton differ? By both Protector and Parliament "an appeal to the free decision of the nation was regarded as beyond the pale of sane politics." [7] So said Charles, Buckingham, and Laud. But was it any less blamable a sentiment in 1655 than in 1625 and 1639? We cannot consistently say that Charles's folly is monumental and that Cromwell is a great statesman when both submit identically the same proposition.

Yet, after all, the difficulty is easily solved by remembering Gardiner's method of composition, his dislike of revision, and

[1] *Commonwealth and Protectorate*, III, 173. See also a similar defence of the Parliamentary leaders in 1640. *History*, X, 105.

[2] *History*, V, 410. And why should it not have been enough?

[3] *History*, X, 133.

[4] *History*, VII, 43. "The King's claim to rule as seemed right in his own eyes without taking the national conscience into account was met by the claim of the House of Commons to rule as seemed right in its own eyes without taking the rights of individual conscience into account.'

[5] *History*, IX, 109.

[6] *Commonwealth and Protectorate*, III, 169.

[7] *Ibid.*, III, 247.

his belief that what the reader most wished to know was the opinion on the facts before him which occurred to him at the moment of composition. In reality, these volumes are the record of his mental growth and of his deepening comprehension of the period. They afford faithful proof of the singleness of his aim and of his careful adherence to his chosen method. For the period previous to 1640, where evidence of any sort about national feeling was all but non-existent, he accepted at first, as his predecessors had, the statement of the men of the Long Parliament that they spoke for England, and inferred they must have known of the existence of a nation and of national sentiment. Gradually, as the fuller evidence of the years 1640 and 1641 passed through his hands, he began to see what he at first believed to be important reservations, and then, as he reached the Commonwealth, saw to be evidence, that political consciousness in the English people as a whole did not yet exist, that the nation, as he believed it to have been when he wrote the first ten volumes, was non-existent.

At the same time, it is important for us to remember, who turn to his volumes from time to time for judgment and comment, that they contain in their final form a variety of ideas about the English nation, its capacity, and ability, which are neither consistent nor complementary. Unfortunately, too, these very comments about the nation, like those regarding the Elizabethan constitution, the English constitution, and the like, are so fundamental, so woven into the fabric of the story that they can scarcely be separated from it. They necessarily affected his judgments upon all questions of constitutionality, his views of Parliament and its relation to the people, his conception of the development of political and constitutional history, and, above all, his idea of the various characters involved and their policies and theories.[1]

[1] "We cannot understand how it is that a thoughtful writer like Mr. Gardiner does not see that his theories about the characters of these men are not reconcilable with his facts. Like many other historians he has brought to his task certain historical generalizations with which the new facts he has been enabled to collect will not harmonize. He has not the courage to throw away his theories and reconstruct them on the broader basis of his discoveries." "He has not so completely emancipated himself from modern theories about that reign." *Spectator*, April 4, 1863.

Yet it is primarily his method itself which must answer for these inconsistencies and contradictions of word and thought, some on the same page, others between different sections of the same volume, or between passages of different volumes. We need not blame him for the insuperable difficulties placed in the way of harmony and consistency by his theories about research, but must we not bear these qualifying facts in mind when utilizing his work? Unfortunately the contradictions and inconsistencies are not few but many; not inconsequential but fundamental; not merely inconsistencies of language, behind which stands a firm and coherent conception of the period, but confusions in thought so great as practically to create two or three dissimilar conceptions of the period.

V

THE QUESTION OF EVIDENCE

To prove that in scattered instances Gardiner's facts did not support his conclusions would not demonstrate anything of great critical value, for few books have ever been written which did not contain some considerable number of facts, difficult of demonstration at the best, over the validity of whose proof the critics might easily quarrel. Evidence which seems irresistibly cogent and clear to one man is meaningless to another of equal ability and information. That many such cases should exist in eighteen volumes was inevitable, and could prove no more than the possibility of various opinions as to the reading of the evidence. The charges brought by Spedding and the reviewers were of a far more fundamental nature. Mr. Spedding attacked Mr. Gardiner's account of the Spanish Marriage and the relations of James and Gondomar; the *Spectator* did the like for his ideas of Bacon's and Salisbury's characters; the *Quarterly Review* for James's, the *Nation* (1878) for Strafford's. Nor are these critics charging him with errors of citation, with a failure to indicate what is quoted and what is his own, with reference to documents which do not substantiate the point to which his text refers. It is the question of evidence in the larger sense which they raise, his failure to demonstrate to their satisfaction the larger generalizations and conclusions which he enounces. It is interesting to analyze from this point of view his account of the causes of the Revolution of 1640 and his description of the constitutional and religious opposition to Charles in Volume VIII of the *History of England.* Even though the *History of England* can be shown to contain comments inconsistent with one another, the preponderance of one view is clear to any one who will analyze the work as a whole and, in view of the fact that this idea has been generally accepted by more recent writers and has been left by Gardiner in the revised edition still intact, it seems advisable to investigate at some length the

evidence he provides in support of this contention. Nor must we ever confuse the two problems we have to study: what were the results of his method and what is the present value of his narrative as it stands in its final form.

As has already been indicated, his thesis is that the cause of the Revolution lay in active national discontent with Charles—in the lack of confidence between King and nation. Carefully he traces the growth of this discontent from 1603 to 1640, pointing out the innumerable ways by which James and Charles sapped little by little the faith of their people. That Charles was personally to blame, Gardiner never doubts, though he wavers between the idea that Charles did not attempt to learn what his people wished, and the notion that he was blinded by congenital defects from perceiving the trend of public opinion. Nowhere does he explicitly analyze at length in a consecutive passage the causes, the development, or the character of the Revolution. He expects us to infer his position from the comments scattered through his pages. Rarely, if ever, does he cite line and precept for his comment, and, knowing his method, we can be certain that something in the narrative or its evidence caused him to make that reflection at that point. To him, it was proof enough to justify its insertion that it should have occurred to a man of open mind. Its proof was the narrative itself, the logic of the situation.

The relation of these comments to the incidents which we can be sure gave rise to them is the evidential problem we are to investigate. Do the facts he cites *ipso facto* establish the truth of his comment? Does the general trend of his narrative sustain his general conclusions? How and when and where does he demonstrate such vital deductions as the existence of an English nation in the modern sense? Where does he find proof of its alert intelligence and that constant reaction upon political events to which he so frequently alludes?

In the chapter headed "The Religious Opposition" we should expect to find something like a harmonious and well-balanced account of the character and strength of the Puritans and of the Latitudinarians. We are given a series of biographical

narratives about Prynne, Bastwick, and Burton, a paragraph about the Star Chamber decree against the press, an account of the relations between Laud, the Queen, and the Catholics, continued from an earlier chapter and breaking off abruptly to describe the Earl of Newcastle, who became at this date Governor of the Prince of Wales. Thence, Gardiner proceeds to Milton, Hutchinson, Lilburne, George Wither, Bishop Williams, Falkland, Chillingworth, and Hales. This we must infer is the religious opposition. Yet of the relation of these men to each other, of the feeling of the rank and file towards them, of the proportion of England that was Catholic, the part that was Puritan, and the strength of Laudianism, we are given only a few scattered and contradictory comments. While there is a long footnote (p. 246) on the political meaning of one of Milton's figures of speech, there are few footnotes to this vital chapter, and those which do not refer us to Con's dispatches cite very ordinary printed and manuscript material which substantiates merely points of biographical detail.

From the news about the Earl of Newcastle, Gardiner passes to Milton, says that he voiced "the growing feeling of dissatisfaction," quotes from *Lycidas*, and discusses Milton's hatred of Laud (pp. 244–246). Then comes a sentence of tremendous import. "Milton's voice expressed the deepest feelings of the nation." But not one line of evidence has been quoted, if indeed any exists, to show that a young man of about thirty, fresh from the universities, knew anything about the deepest feelings of the nation, or had any intention of expressing them in a classical poem written in memory of a dead friend. The literary historians, with Mr. Masson a notable exception, have often used this sort of indefinite expression, and in a literary criticism it may do very little harm, but it seems decidedly out of place in a serious history. If Gardiner meant it to be understood literally, it indicates that he believed Puritanism to have been the "deepest feeling of the nation." Such a conclusion a goodly number of his readers will instantly challenge.

He continues: "Slowly and reluctantly the generation of serious Englishmen now advancing towards middle age was

coming to the conclusion that the overthrow of the Laudian system was the one thing necessary for the restoration of a healthy spiritual life. The feeling was all the stronger because all moral earnestness was repelled by the loose follies of the Court." In the life of Hutchinson, he thinks, this feeling was reflected: he was "a type of a large section of society"—the noblest class of English Puritans. It was their refusal to countenance the Court which made the opposition of Prynne formidable and which gave weight to such attacks as Lilburne's. Arminianism and frivolity at court alienated from Charles the deepest feelings of the nation and a large section of society.

But does Gardiner seriously mean that conclusions of such importance are established by excerpts from *Lycidas* and quotations showing Mrs. Hutchinson's idea of her husband? Are we to conclude that Laud's system had already destroyed a "healthy spiritual life" and alienated the deepest feelings of the nation? Certainly the mass of evidence on the side of the Established Church should not be dismissed without further explanation or consideration. These are points upon which no man's unsupported opinion is worth anything as scientific history. In these three pages devoted to illustrations from Milton and Mrs. Hutchinson, Gardiner might have given us a sober statement of evidence pro and con for the momentous conclusion—that all serious Englishmen had decided that the overthrow of Laud was the one thing necessary for the restoration of a healthy spiritual life.[1]

A few pages further on (p. 250) we find some comments which gaze in the other direction. "Englishmen had not so changed since the days of Elizabeth as to be anxious to deliver themselves over to be manipulated by a Prynne or a Bastwick, or even by a Milton or a Hutchinson. There were many thousands who still regarded with reverent admiration the old Prayer

[1] The phrases Gardiner uses to describe the character of Charles's Court, which is given such portentous significance, are by no means synonymous. "Frivolity," and "solemn trifling" are by no means "loose follies." And certainly if the Court life alienated the deepest feelings of the nation must it not have deserved somewhat stronger terms than these? Gardiner nowhere gives us a description of court life, or tells us what he thought of it in any more direct manner than this.

Book, which they had learned to love as children. There were probably many more thousands who had no wish to see cakes and ale banished from life. . . . Men of this temper—and there can be little doubt that the middle classes of the towns were very much of this temper—would have formed the best security that a government could have wished against Puritan violence. Laud's proceedings irritated them in every possible way, till they forgot that Puritanism could be irritating at all." If Englishmen were unwilling to be led by the Puritans, how could the Puritans express "the deepest feelings of the nation?" If thousands still approved Prayer Book and Church, what proportion of the population were they? The natural inference is that the serious thinkers, a strong though not preponderant part of the population, were in sympathy with the Puritans, while the ignorant majority still clung to their prayers and ale. Of this type, says Gardiner, were the middle class of the towns, but the only evidence he gives us is a paragraph on George Wither's poetry, who was, he says, "the most popular verse writer of the day;" his popularity would naturally argue that the majority agreed with his ideas. He then adds that this large middle class which naturally favored the Church were irritated by Laud "in every possible way," until they forgot their natural animosity to Puritanism and joined the religious opposition.

These significant points are in fact those which must be carefully elucidated before we can conclude anything about the religious opposition, its elements and their strength, its organization or lack of it, its geographical complexion. If Milton and Hutchinson, Williams and Chillingworth are the leaders of this party (as we might infer from the long account of them in this chapter), ought we not to be told something more definite about their policies and the way in which they became recognized as leaders? If they were not leaders, why were they mentioned at all? An analysis of this chapter shows that Gardiner has in a few almost casual sentences, unsupported by any evidence at all, even in the footnotes, defined the religious opposition as the serious-minded generation of Englishmen, whose Puritan sensibilities—"the deepest feelings of the nation"—were alienated

by "Arminianism and the loose follies of the Court," and who possessed the support of a large body of men in the towns, naturally friendly to the Church, but irritated beyond endurance by Laud. From one reason or the other, the religious feeling of the nation was alienated from King and Church. Nor has the evidence for these conclusions been developed in earlier volumes.

Such a description of the religious opposition prejudges every issue of this decade, and nearly every motive of every actor. If the serious-minded Englishman was alienated by Arminianism and the "loose follies" of the Court, Laud and Charles are personally responsible for the Revolution.[1] To say that the noblest men of the period were opposed to the King, is to place Charles *ipso facto* and irretrievably in the wrong. Where the best of England arrayed themselves truth and justice were very likely found. Such a statement proves Charles wrong in law and in expediency; to have thus alienated the best of his subjects, he must have ruled tyrannically; a revolution supported by the best men in England must have been legitimate, inevitable, glorious. Gardiner has thus decided by implication not only the character, number, and policy of the actors in the conflict, and judged them and their motives, but has defined the movement itself, delimited its causes, proved it justifiable and inevitable. All follows logically and indeed necessarily from the statement that the best in England was opposed to Charles.

Moreover, if once we grant this premise, every question will be clearly and succinctly decided against the King and in favor of the Parliament by the very force of the premise itself. No evidence will in future be needed and indeed no evidence contradictory to such a fundamental premise could be considered

[1] Laud thus summarized the charges against him at his trial: "I caused Sermons to be preached in court to set the King's prerogative above the law, and books to be printed to the same effect; that my actions were according to these. . . . He charged upon me the benevolence, the loan, the ship money, the illegal pulling down of buildings, inclosures . . . that I labored to set the King above all that is called law." The speeches of his accusers held him personally responsible for all they hated, and for this breach of a personal responsibility he was executed. Laud, *Works*, IV, 56.

other than the mistaken vagaries of ill-informed and unintelligent men. And so, Gardiner consistently waves to one side the statements of James, Bacon, and Buckingham, Charles, Strafford, and Laud; he has one solution of their troubles; they could neither see nor understand the nation's beliefs and aspirations. But Gardiner has nowhere given us adequate evidence in support of his contentions

In the succeeding chapter headed "The Constitutional Opposition," the latter is described by a detailed narrative of Hampden's case, and by brief descriptions of the Forest Courts, the various monopolies, the growth of London, of hackney coaches, of the letter post, and the drainage of Hatfield Chase and of the Fens. The bulk of these miscellaneous economic matters have only the slightest *prima facie* relation to the trouble between the King and his subjects, yet no relation is demonstrated.

The first thing we wish to know about ship money is the extent of its unpopularity. Mr. Gardiner thus answers the query: "The ecclesiastical grievances were only felt by a part of the community. Financial burdens were felt by everyone who had property. In the summer of 1637 the outcry against ship money had become general" (p. 269). Clearly Gardiner intimates that because taxes affected everyone, and because ship money was a tax, everyone objected to it. The reasons for the objection were also succinct. "Voices were raised *on every side* declaring it to be utterly illegal" (p. 270). A footnote referring us to the evidence for these sweeping and fundamental statements would have been far more useful to us than the references on the expedition to Sallee. The exact extent of the services of the fleet raised by ship money are of no consequence whatever compared to the extent of the opposition raised by the Third Writ. Did Gardiner think his statement that the opposition was universal so self-evident that it needed no proof?

He described the second writ of ship money and summed up the situation in a paragraph whose marginal note reads, "feeling of the nation."[1] He concluded that the feeling against

[1] *History*, VIII, 85.

Charles was "one rather of dissatisfaction than of positive disapprobation. He had not committed the nation to any action which was distinctly unpopular. The fleet which had kept the sea during the summer had done but little good or bad. Nor was the pecuniary pressure of the ship money great enough to be felt as crushing." Then follows this significant and extremely important conclusion. "The real grievance beyond that which attends any demand whatever for money was that the King had deliberately treated the nation as a stranger to his counsels and that if his claim to levy money on his own authority were once admitted, the door would be opened to other demands of which it was impossible to foresee the limits." But do not his own statements on which this comment is hung show that the nation was thinking very little about the matter one way or the other? He nowhere gives clearer proof of this fundamental contention.

In minor matters, too, his conclusions do not seem to fit the evidence he cites. In his account of (p. 273) St. John's argument, he comments as follows: "A reason no doubt there was, to which St. John *did not venture even to allude,* but which his hearers were not likely to forget." If St. John did not allude to it, why does Gardiner assume that it was in his mind or in the minds of his hearers? Nor is the idea referred to by any means an axiomatic inference from the situation. According to him, the idea which St. John and his hearers "must" have had in mind was that Charles really refused to ask Parliament for a grant of ship money, because he was afraid they would discuss the civil and ecclesiastical policy of the reign. Might it not be true that the King declined to ask Parliament for the grant because he believed (as Gardiner says, two pages before) that he might legally collect it without consent of Parliament? It was equally unnecessary to drag in Whitelocke's story that Judge Croke's wife encouraged him to support the "popular side,"[1] only to add that there was no evidence to support it (p. 278). Gardiner declares that the immediate result of the decision

[1] Such phrases as this prejudge the issue by assuming that the whole nation is opposed to the King. That is what we wish to see proved.

against Hampden was the payment of ship money, but he minimizes it by saying that "the pressure was not exerted entirely in vain," leaving us to infer that none the less it was opposed and disapproved.

Having thus disposed of ship money, Gardiner continues: "As was, however, to be expected, the grievance of ship money did not stand alone." "Complaints were heard of other mischiefs inflicted for the most part on special classes or special localities, each of them separately of less importance than that caused by the ship money, but which, taken together, were sufficient to excite a considerable amount of irritation." What definite sins does Gardiner lay to Charles's door as a part of the constitutional opposition? The corporation of brickmakers made bad bricks; the coal shippers refused to standardize coal; a company was chartered to make soap and another to make salt, each paying the King a royalty; the regulations to prevent the waste of flour and grain were petitioned against in some localities. "For these encroachments, some reason, however unsatisfactory, could in every case be alleged." But, as a matter of fact, Gardiner does not show that the slight dissatisfaction which did result had any political consequences,[1] nor does he make clear that the King was personally to blame or that the people thought he was. He seems to assume that all discontent must have had political results.

It is hard for a student of economic history to see that there was in the cases Gardiner enumerates any active discontent with Charles. The "suffering" seems to be exaggerated and due in the main to Charles's very willingness to obey the wrong economic theories of the day. The extent of Gardiner's assumption appears in the paragraph which begins "it is not always by the most hurtful actions that the greatest discredit is gained" (p. 287), and which then goes on to describe the attempts to check the growth of London. This, he says, was at that time believed an evil, but "when at last a serious effort was made to check the supposed evil, the initiative did not proceed from the

[1] Compare the much greater discontent under the Commonwealth, *Commonwealth and Protectorate*, II, 248.

King." Nothing is brought forward to show that any one thought the King should have taken the initiative, and nothing to show that any one blamed him for refraining. The City petitioned the Council against this unseemly growth, says Gardiner, the real reason moving them being the jealousy between the City proper and Westminster; the Council made suggestions which the City neglected; Charles did what the City wanted and issued very few permits for new buildings; the result was the overcrowding of houses and the plague, which the College of Physicians declared to be due to the increase of buildings and recommended the institution of a Health Office. "For good or for evil it was dangerous to interfere with the great City commonwealth," moralizes Gardiner. He then describes the quarrel over the Londonderry forfeiture. But where has any discredit come from all this? Did not Charles do exactly what the City wanted? There is no improbability about discontent with Charles from these incidents, but the most essential evidence is exactly what Gardiner omits—proof of the political significance of these events. As will later appear, he found it in the Grand Remonstrance.

The space spent in describing this trivial matter would have been well bestowed on a fuller account of the extremely important quarrel between Clergy and City over the collection of tithes. Here was a real grievance (though not one against the Crown) and one which did play a great part in the opposition to Laud; but Gardiner allots it fourteen lines and does not make clear its significance.[1] The hackney coaches and the posts Gardiner calls "salutary" innovations, and then includes them in the category of Charles's crimes (p. 291–292). The drainage of the Fens, too, is a subject which hardly belongs here (p. 292), and Gardiner feels the need of justifying its mention. The story, he says, "brings out into clear relief both the merits and defects of Charles's character." He wished to do right, to benefit all, and wrong none, "yet he gained no credit from his good intentions." Once again we must ask for evidence of

[1] Some light is shed on the earlier phases of this topic by Usher's *Reconstruction of the English Church*, I, 229–239; II, 53–73.

such accurate information about the public mind. Does he mean that the majority of the English people were watching the draining of the Fens and deciding whether or not Charles deserved credit? The real difficulty was, he adds, that Charles "took his decision in private before an inquiry had been held, and he stultified his Commissioners by announcing to them his decision just as they were starting to make the inquiry upon which it was ostensibly to be based" (p. 299). If we turn back a page or two, we find Gardiner's description of the real situation does not quite justify this comment. The Commissioners to investigate the drainage were in session when they received a private letter from the King, telling them he thought the drainage system incomplete. They then surveyed the works, secured verdicts from several juries, and came to the same conclusion. "Whether they were acting under pressure or not," adds Gardiner, "they were, necessarily, after the reception of the King's letter, liable to the imputation of doing so." Only the knowledge that the Commissioners published the contents of the King's letter immediately on its receipt would make it possible for the public to blame them. In reality, Gardiner declares, the public knew nothing about the King's attitude. From the moment that the Commissioners declared against the Earl, "a vague hope spread that the King might be on their side." But if the people already knew the contents of the King's letter, they would have had more then "a vague hope," gathered from the Commissioners' decision, that the King would favor them. Moreover, a mob collected, and voiced, not its wrath against Charles and such suspicions of his actions as Gardiner implies they had, but absolute confidence in Charles and complete readiness "to obey God and the King, and no one else." The upshot was that Charles undertook the work and allowed the people to keep their lands until the drainage should be finished. Inasmuch as it was never finished, they kept their lands as they wished. What evidence is there in this to discredit Charles or to blame him for holding a private inquiry? Gardiner's narrative shows that the implications in his comments are without foundation.

Equally unsupported is his final word. "When all this parade of investigation ended in the assignment of a large number of acres to himself, it was easy to leap to the conclusion that the sole object of the whole proceeding was to fill the exchequer at the expense of a popular nobleman, whose advocates before the Commissioners were St. John and Holborne, the very men who had recently been retained by Hampden." It is indeed easy for the reader to leap after his historian to such a conclusion, but he really wants to know whether any contemporary ever had any such idea, and if he had, whether he thought it valuable. Above all, in what manner was the Exchequer to be filled by the 57,000 acres of marsh that Charles acquired? The general conclusion Gardiner reaches is that Charles was himself at fault. "He failed because morally, intellectually, and politically he was isolated in the midst of his generation" (p. 299). Are we to infer then that Charles's conduct in affairs growing out of the cases of ship money, of the growth of London, of the hackney coaches, and of the Bedford Level demonstrated his moral, intellectual, and political isolation? This view of Charles is not elsewhere advanced by Gardiner as clearly and we may not unfairly assume that he thought it demonstrated by these events. If it is not a conclusion from these happenings, why is this comment placed here?

From Charles, Gardiner drifts naturally to Parliaments, and from Parliaments to local government, about which he makes some tremendously important but unsupported assertions. The fact that the judges were appointed by the King always seems to Gardiner *a priori* evidence of their servility, which is made a certainty by the fact that they pronounced the King's acts legal. But to the fact that the King also appointed the sheriffs and justices of the peace, whose work was daily directed by the Privy Council, he does not assign the same significance. "If they collected ship money, they collected it unwillingly, and there were few indeed amongst them who did not sympathize with the gallant resistance of Hampden" (p. 301). The rendering of judgment for the King he had deemed in the case of Finch "outrageous," but the obeying of the judgment and

the collection of the money by the sheriffs and justices did not seem blameworthy to him because he assumed it was done unwillingly. This is a point of great significance: that the very men who executed Charles's orders were disaffected. If true, it explains the real power of Parliament and the real weakness of Charles; it makes the local officials the backbone of the constitutional opposition. But Gardiner cites no evidence to prove it.

"In the towns," he continues, "the local organization was far more independent of the government than it was in the counties." This he claims was true in the case of London. "The mass of the citizens had nothing directly to hope or fear from the Crown; whilst the habit of participating in the election of those by whom the affairs of the City were directed, and in the actual decision of more important questions, inspired them with that mutual reliance which is the ripest fruit of community of action." Has not Gardiner somewhat exaggerated the political influence of the mass of the London populace? If he means by "citizens" those who shared by heredity or privilege in the government of the city, his statement becomes a mere truism and proves itself; if he means participation by the great mass of the inhabitants, is he not wrong in supposing that the majority participated at all? Moreover, while the town organization was at this time everywhere nominally more independent than the county organization because the town officials were all elected, the election of town officials by a small and coöptative corporation such as Elizabeth had erected in most boroughs in order to control them was, to say the least, not popular government which was influenced by the mass of the people. Authentic instances in which the Crown controlled the borough's election of its own officers are so numerous that it is hardly likely that in practice the towns were any less under royal influence than were the counties. Whether or not this state of affairs was true in 1638, and, if it was not true, what reasons explained this new independence of attitude, are the very topics we wish investigated and decided by a man of Gardiner's eminence.

Gardiner concludes, as his marginal note says, that "Charles's task (was) a hopeless one," for "such a population—and if other town corporations were far behind the capital in wealth and population, they were not far behind in self reliance—was not likely to endure forever to be entirely excluded from all participation in the direction of the national policy, especially as the freeholders and gentry of the counties were very much likeminded with the inhabitants of the towns." Again no evidence is given or cited. After all, these statements are only the detailed expression of Gardiner's belief, when writing these volumes, that a keen, intelligent English nation existed, which had been long kept out of its rights by Charles and which had now determined to be excluded no longer. Yet this self-reliance and independence are the very things whose demonstration we must demand. We particularly wish to know *whether* the towns agreed with the counties, and why; *whether* England was united against Charles and why. Definite evidence of such "facts" is hard to find; unquestionably it is difficult to set forth briefly the indefinite and scattered indications which shape the student's impressions, and which to him do prove the point. But should he not explain to us that his opinion is not based upon definite evidence, but is an impression which he finds in his mind after his work is done, and which he must justify by saying that it is his? Certainly conjecture is the last thing the scientific historian is supposed to offer to his readers as certainty, and those facts, which it is undoubtedly hard to demonstrate one way or the other, should be the last about which he would permit himself to dogmatize. Gardiner has not offered this explanation or justification of his course.

It is easy to say that we would do better to accept Gardiner's unsupported opinion than some one else's attempt to prove the case from evidence; but is that not assuming the truth of the conclusion and employing it as the premise? Gardiner's trustworthiness is precisely the question we are investigating. If we find him asserting as self-evident conclusions opinions which are not supported by his evidence, does not that fact raise an extremely important presumption regarding the value of his

conclusions? The most fundamental tenet of the scientific writing of history denies anyone the right to state more than the evidence he quotes or refers to will prove. It denies any one the right to base his interpretation of any period upon sweeping generalizations for which he cites no evidence. It denies the existence of axioms and asserts the necessity of proof for every conclusion. The more far-reaching the conclusion or the opinion, the more intangible its evidence, and the more liable to two interpretations, the greater should be the historian's responsibility to set forth fully and frankly the difficulties and perplexities which he meets, and the more guarded should be his expression of his opinion.

When, therefore, the historian is dealing with the growth of popular dissatisfaction and is attempting to explain why it seemed irresistible in 1640, the evidence which establishes his conclusions is the fact of facts in which his reader is interested. That *is* his subject; that is what he is attempting to prove, and he cannot prove it simply by describing certain events which he assumes to be its manifestations. He has still to demonstrate some connection between the event he sees and the popular irritation which he assumes exists. On its face, the case of ship money proves merely that Hampden and his friends disbelieved Charles's claim that ship money could legally be collected. That it sounded the tocsin for national revolt is not to be proved by describing the lawyers' arguments, by saying that all England stood behind Hampden, and by then admitting that the vast majority paid the money. Ship money is of no significance as a cause of a national revolution until we have *demonstrated* that the people as a whole disliked it. The *ex post facto* statements in 1641 about it and its unpopularity, the fact that it was *then* declared illegal, do not *demonstrate* that it was either illegal or widely unpopular at the time. Nothing but evidence from the year 1638, from all quarters of England, from counties and towns, from lords and gentlemen, from Churchmen, Puritans, and Catholics, can *demonstrate national* excitement and *national* anger against Charles. We must either be shown the evidence or be told where it is.

The legality of the acts of Charles is an issue almost equal in importance to the composition of the opposition against him. Charles certainly believed that he was acting in consonance with the law; Hampden and Pym certainly charged him with illegal conduct; by his criminality the Revolution of 1640 was justified by its defenders. We are here concerned not so much with the justification of Charles or Pym as with an examination of the validity of the case put forth by Charles's assailants. Were Pym's arguments and St. John's precedents correct? Will they stand the test of time as well as the test of divisions in the Long Parliament? To answer this question we must investigate precedent and the truth about English history in the preceding centuries. And when we have answered it we shall have adopted fundamental conceptions which will govern inevitably our view of the Revolution, its causes, character, and results, and of the character and methods of every actor in it. On the accuracy and justice of these conceptions will depend the worth of any judgment about it we may express. We have already sought to demonstrate at some length that Gardiner's views about the English constitution and the Elizabethan constitution were not consistent: we have yet to show that none of them prove his conclusion that the Commons were legally right and the King legally wrong.

His explicit descriptions of the condition of early precedent show that he believed it to lack definite character altogether and in fact to support both sides about equally well. Far from showing that the Commons were technically right, one of his longest passages on the subject seems to show that they depended on chance words and indefinite phrases, and that they dragged "precedents" into the argument by the heels to "prove" something unrelated to their original purpose. "The letter of the old statutes was singularly confused and uncertain, and could only be rightly interpreted by those who entered into the spirit of the men who had drawn them up. Differences of opinion on the form of government which was most suited for the seventeenth century were sure to reappear in differences of opinion on the form of government which had actually existed

in the thirteenth and fourteenth centuries, and would make themselves felt in any attempt to educe a true meaning from the early statutes. These differences were none the less felt because they did not on either side find their expression in any well-defined system of political opinion. Both parties agreed that there were certain definite functions which belonged to the King alone, and that there were other definite functions which belonged only to the House of Commons. But the great majority of the Lower House were beginning to feel that when any difference of opinion arose on any important subject between the King and the Commons, it was for the King, and not for themselves, to give way. A few, however, with Bacon at their head, thought that the King ought to be, at least in a great measure, independent of the House of Commons. In looking back to the past history of their country, both parties allowed their view of the old constitution to be tinged with colors which were derived from their own political opinions."[1]

We see how naturally the present political quarrel would tinge the view taken by both parties of the past precedent; we see each beginning to feel that it ought to possess the predominant influence and therefore anxious to show by an appeal to the past that it had always had what it now claimed, and we can easily believe that both had inevitably stretched their claims beyond the bare letter of the law, to which in fact neither could truthfully appeal. But why now does Gardiner add this sentence? "As might be expected when such a history as that of England was in question, those who were the best politicians proved also to have the most accurate knowledge of history." Granting its validity, does this not in fact contradict what he has just written about the prejudiced interpretation of confused precedents by both sides, by assuming, first, that there was a correct view, and, second, that a prejudiced interpretation of confused precedent by either King or Commons would be historically correct?

He goes on, however, with his original idea. "Both parties, indeed, made one mistake. It is impossible to read the argu-

[1] *History*, II, 76.

ments which were used in the long debate without perceiving that all the speakers agreed in attributing to the constitution of the thirteenth and fourteenth centuries far more of a settled character than it in reality possessed. They all seem to have imagined that on important points there was some fixed rule to which all had assented, the contravention of which was known to be a breach of constitutional law. They failed to seize the true character of the epoch as a time of struggle during which the idea of law was gradually evolving itself in the midst of a conflict of opposing wills. But the popular party had the best of their adversaries in this, that what it alleged to have been the acknowledged law of that period was in reality the system upon which the constitution was finally moulded after the conclusion of the struggle, and towards which, during its continuance, every step taken in advance was constantly tending; whereas the powers claimed for the Crown had gradually sunk under the unintermitted protests of the nation, and had been finally, by universal consent, either explicitly given up or tacitly abandoned, till they had been in part regained under very different circumstances during the reigns of the Sovereigns of the House of Tudor."

Is it not now acknowledged by all students of constitutional law, that the events which shaped the constitution and decided that the Commons and not the King should predominate (in other words, decided that the growth of the Commons spelled "advance"), were the very events Gardiner is treating and not the baronial wars of the fifteenth century? Is not "unintermitted protests of the nation" rather a strong expression in view of the long years which elasped between most of these protests? When Gardiner declares that by "universal consent" most of the powers for which the Crown was contending had been "either explicitly given up or tacitly abandoned," is he not prejudicing the issue from the start and stating the direct contrary of what he has just said about the confused precedents of the past and the lack of settled character in the constitution of the thirteenth and fourteenth centuries? If these issues had all been settled by "universal consent" during the fifteenth

century, why should the Commons, equipped with the "best knowledge of history," be quoting a prejudiced interpretation of the confused precedents of the thirteenth and fourteenth centuries to prove what was already admitted in the fifteenth before the "usurpations" of Henry VII and VIII? Is not Gardiner's view based upon his own knowledge that the authority of the House of Commons was in 1860 paramount—a fact which no contemporary of Hakewill and Pym could have known, for it was precisely what was at that time under discussion? The magic letters that spelled "advance" were not known in 1625, nor was it clear which ideas were the "best politics." In order to prove the proper reading of precedent in 1610 and 1640, Gardiner reads it from the standpoint of 1860 and decides what the real precedent of the early centuries was by selecting that strand which eventually prevailed.

When we wish to understand the history of the constitution of the present day, we must of course pay particular attention to the history of the House of Commons, and it will naturally dominate the story stretching from Alfred's Witan or before to the present. But when we are trying to see how and why and *when* the House attained its supremacy, and when we have come to that turning of the roads where the House is claiming the ascendency and wishes to prove its right to it, are we not prejudicing the issue beyond repair as historians if we say that the ideas of the House were *historically* right then because the House is in the ascendant to-day, and from that premise select the early claims of the House as the true precedent of the earlier centuries? The historian has assumed the truth of the very proposition we want him to *investigate*.

Gardiner, however, was willing to go even further than this. "If the popular party was right in its interpretation of the spirit of English history, it would have been strange if they had been unable to meet their opponents on merely technical grounds. Careless as the early Parliaments had been of laying down general principles, it would have been very remarkable if in the course of a century and a half they had not dropped some words which could be understood as a bar to all future attempts

of the King to exercise the right of laying impositions in general, although at the time they were only occupied in defeating certain particular exactions. . . . Even as an interpretation of the mere letter of the statute, Bacon's view of the case is manifestly inferior to that of Hakewill; but if the Acts are read in the spirit of the times in which they were drawn up, the superiority of the popular party becomes still more undoubted. The words in which these old contracts between the Kings of England and their Parliaments were drawn up were undoubtedly loose, but their intention was manifest. If the Commons only spoke of the impositions on wools, woolfells, and leather, from which they suffered, there could not be the slightest doubt that they would have had equally invincible objections to any other form of imposition. That after a long struggle the King gave up the point and did not attempt to shift the duties from wool to some other articles of commerce, plainly shows that he understood the meaning of the words that were used better than the lawyers who attempted two hundred years afterwards to fix their own sense upon them. Among the many speakers on the popular side, Hakewill has the credit of having been the first to establish that the Commons were technically in the right."

Do Gardiner's statements at all prove his conclusions? Are the careless words of early parliaments "which could be understood" in the sense the Commons wished, the sort of evidence to prove to the historian that Hakewill was "technically in the right?" Why should he assume that he knows specific clauses about wool and leather were "intended" to apply to the subject of taxation in general? How comes it that Gardiner has so accurate an idea of the state of mind of the early Parliaments, that he cannot have "the slightest doubt" that they meant what they did not say? In reality, Gardiner has done exactly what he blamed Macaulay for doing: he has decided a great issue in history, which was by no means clear to the men of the time, by applying to it his later knowledge. He has furthermore "proved" that Hakewill and Pym were right in their ideas of precedent by showing that their views eventually pre-

vailed. Is not Gardiner doing exactly what he blames the King's lawyers for doing: fixing his own meaning upon the precedents of the past?[1]

He takes one step further in explaining the significance of this debate. "Naturally the arguments of those who opposed the claim of the King were far superior to those of their adversaries, but the House *instinctively* felt, as soon as the question was fairly put before it, that its whole future existence was bound up with the arguments of the popular speakers." That the question was thought important by the House, is abundantly proved by the *Journals* and our reports of speeches; that it was understood at the time to possess any such momentous significance as this, is a thing extremely easy to assume, but extremely difficult to demonstrate from the best evidence. Yet Gardiner makes the case a turning point in constitutional history without giving us explicit evidence for his opinion.

[1] "Like the forest claims, the proposed demand (1634) for ship money was either technically according to law or could easily be argued to be so." This sentence contradicts itself. It also contradicts his later language already quoted. *History*, VII, 366.

VI

THE ACCURACY OF GARDINER'S CONCEPTION OF THE ENGLISH NATION

If Gardiner has not himself demonstrated by line and precept those larger conclusions upon which his real interpretation of the period depends and which naturally form the major part of his conclusions of vital import to other workers in the same field, are there any means open to us for testing the validity of his opinions? What does the evidence available to less informed students than he seem to indicate to be the truth? What effect upon Gardiner's general premises regarding the English nation, the English constitution, the Elizabethan constitution, and the like has the work of later students had? We are by no means to-day in his position in 1860—turning for the first time the leaves of the complete record. Nearly half a century of cataloguing, calendaring, and monograph writing has placed at the tyro's disposal much evidence which the best informed could not obtain when Gardiner finished the *History of England* in 1883. If we now possess any evidence at all valid for testing the correctness of the fundamental premises on which his volumes are built, the importance of the result will be apparent to the least informed. To attack the existence of an enlightened national consciousness between 1603 and 1640 is to batter the keystone of the arch; to disprove its existence would invalidate the bulk of his comments and conclusions in the ten volumes of the *History of England*.[1]

When we attempt to prove the existence of political intelligence in the mass of the people in England in 1635, we must admit that our task is difficult in the extreme. Letters we have in abundance, many of which make broad, sweeping statements

[1] We must beware of seeming to contradict ourselves by maintaining in one chapter that Gardiner's views of the English nation are contradictory and inconsistent and by questioning in another their accuracy. It should be remembered that the inconsistency lies rather between the *History* and later work.

about popular feeling all over England; memoirs written by men on both sides speak of the feeling of Englishmen in general at various times.[1] That there should have been widespread feeling is probable enough: county courts, the assizes, the general cloth of horse fairs, besides the numerous local fairs and markets, must have made possible a considerable interchange of thought on political subjects. But positive as many such statements are, they are open to serious critical objections. The letters and dispatches are usually written from London and most of them give us little reason to believe that the writer *knew personally* conditions outside London, to say nothing of general conditions over England as a whole.[2] Ample as their number is, moreover, the number of these papers written during any one month previous to 1640 is extremely small; the statements rarely cover explicitly more than the views of a very small locality, usually London or the Court, or of a comparatively few persons, usually gentry; in almost every instance the writer has some evident bias as well as some obvious reason for trying to make his correspondent believe something about the state of affairs in his district.

We ought not to assume without positive affirmative evidence that these letters give us anything more than the testimony of individuals, whose personal knowledge extended in few cases beyond their own district, and whose impressions were more than likely colored and influenced by a variety of motives. If, in addition, we count the number of individuals writing instead of the number of letters written, we will be surprised to see our numbers shrink from thousands to hundreds, and will realize that the great bulk of the "evidence" was the work of some score or two gentlemen, mostly on the parliamentary side. We are

[1] Rushworth is full of such phrases, *e. g.*, "Upon the Dissolution of the last Parliament, the people were highly discontented, and uttered unpleasing Speeches and Discourses" (1629). *Collections*, II, 3. See also Gardiner's summary of Neville's Memorial, 1613, *History*, II, 202. From the members of Parliament, the ill-feeling "had spread over every constituency in the Kingdom." Also *Strafford's Letters*, I, 29 (1625), Ingram to Wentworth.

[2] An adequate critical demonstration of these statements would require as much space as this whole book.

looking, too, for no mere general indications of disapproval with the King. Gardiner explicitly states, at many different dates, that the nation outside Parliament held and expressed definite opinions on as small a matter as Buckingham's reform of the royal household on the draining of the Fens. Such a statement as this claims national intelligence and readiness of national expression which no general statements regarding a hatred of Charles or a love for Parliaments and the birthrights of Englishmen can demonstrate. If we are to state what the nation thought about Eliot's resolutions or the decision on ship money, we must have positive evidence, from more than a few individuals, couched in special, not general terms, and coming not only from London and the eastern counties, but from most counties and boroughs in England, and from all classes of the people. That John Smith thought all this true, proves nothing: we have first to demonstrate that his opportunities of observation were such as to make his opinion valuable. That he was honest and impartial, eager to speak the truth, proves nothing: we have first to show some reason for supposing he knew anything to tell. Nor is it enough to say, that he "must have known" the ideas afloat in his country; that at fairs and county courts the people "must have expressed" their indignation about ship money. The people did meet at fairs and county courts and must have talked together, but that fact does not in the least prove that ship money was the topic they discussed. That it was hotly argued is probable, but when we are endeavoring to *prove* that it *was* discussed in a certain way hostile to the King, such a method assumes the truth of what we are trying to prove. Even if we prove discontent in various shires,[1] we are not warranted in assuming forthwith that it was political and was directed against the King's policy. If we could investigate the case, we might find the trouble local and not national, the result of economic troubles arising out of enclosures, bad harvests, quarrels over tithes, law suits, or a thousand other matters.[2]

[1] Usually the most cogent evidence says in so many words no more than this.

[2] The great bulk of the evidence of discontent ostensibly relates purely and simply to such matters as these.

So much is also highly probable. Where we know so little we must not conclude too much.

Without direct and conclusive evidence from the country itself, Gardiner was driven back upon indirect contemporary evidence, and found cogent and positive statements, assuming (apparently) the existence of this nation in the debates in Parliament.[1] In the House of Commons were gathered representatives from all England; there the condition of the realm ought certainly to have been known; and there the sentiments of the constituencies, general and special, ought to have been ascertainable. We have yet, however, to demonstrate that the speeches made in Parliament tell us what the members really thought the national feeling was, or that we have full or even accurate reports of what the members said. That the members of the Commons knew much, we need not doubt; that they have in any way adequately communicated that knowledge to us, we may well question.

Any one who has worked even for a little in parliamentary history before 1640 will not need to be told how exceedingly fragmentary the official records of debates are. The *Journals* are so scanty that often we cannot even get the gist of the speeches and can only guess at the trend of the debate. The most that can be said of them is that they contain what the clerk found time and courage to write, and that this cannot in the least be supposed adequately to represent what was said, nor even the most important matters discussed. In our dilemma, we must turn to the note-takers. It is remarkable that every note-taker whose account is of any length, or often quoted, was a strong partisan on the side of the Commons. So much we may forgive them: naturally enough the men most interested took the fullest notes. The fact is nevertheless extremely significant. Furthermore, D'Ewes, Rushworth, Eliot, and others wrote out in full the account we now have in later years when they had committed

[1] The speeches of Eliot contained many examples and the *Negotium Posteriorum* many more. They are also to be found in the *Journals*, *e. g.*, "Sir G. Moore. Sent hither from all the Commons of the Kingdom. Our principal care to speak from the Commonwealth, that continually speaketh to us." April 12, 1614. C. J., I, 462.

themselves to the assault on the Crown, and when the struggle had reached a crisis which defined sharply most of the issues about whose earlier stages they were writing. Is it not possible that the account was (perhaps unintentionally) colored by the compiler's later views and that his recollections of debates later than those he was describing influenced him considerably in developing his rough notes taken at the time? D'Ewes, for instance, certainly wrote his account of Elizabeth's Parliaments between 1629 and 1632,[1] when the dissolution of Charles's Third Parliament and Eliot's imprisonment had tinged all the issues with warmer color. He tells the story in his own words with occasional quotations whose fidelity we cannot check.[2] His work, like most other publications on Parliament of this century, was printed years after his death, and we have no guarantee that the printed book gives us exactly what he wrote. His famous *Diary* of the Long Parliament was really a compilation made from his and other men's notes, for he was not present at many events. In any case, it is striking that very little at all unfavorable to the Parliament found its way into these pages. The historian of the seventeenth century was more often an apologist than not.[3]

Then we know that Eliot's *Negotium Posteriorum* is untrustworthy;[4] that his papers and notes contain much which we are quite sure was never spoken or done; Rushworth is full of errors; Whitelocke contains many obvious blunders of the first magnitude.[5] The only account of the early debates of the Long

[1] It was begun certainly before 1629 (see p. 529) but was finished Feb. 3, 1631–32 (preface). He may have written the Journals of Elizabeth's reign to show how clearly past precedent supported present policy.

[2] He omits details at discretion, p. 262. "Four bills also of no great moment," which we might find infinitely important, but which were not to his purpose. His summaries of events concerning the royal prerogative and liberties of the House (*e. g.*, p. 130, 397) might read very differently in the original. Unfortunately the evidence he had is no longer accessible. Gardiner (*History*, IX, 231) seems to have had doubts of the authenticity or value of the *Diary*.

[3] See Rushworth's disclaimer of the historical attitude in the preface to Part II of the *Collections*.

[4] Gardiner, *History*, V, 338, 346, 348, 349, 366, footnotes.

[5] Gardiner, *History*, IX, 120, 221, 222, etc., footnotes.

Parliament (in Bodvile's notes prefixed to D'Ewes' *Diary*) is, as Gardiner shows, filled with obvious inaccuracies.[1] Some very important documents are exceedingly suspicious in the form we have, such as Cecil's famous speech in 1621,[2] Pym's speech of 1640,[3] Vane's Notes,[4] and others.[5] When, therefore, we know that the main evidence regarding the existence of national feeling comes from sources as partisan, fragmentary, and on many points as clearly inaccurate, we may well hesitate before according it full credence.

Furthermore, even could we trust all the reports we have, we should still possess an account so disjointed and uneven that any narrative of the debates must necessarily be formed by interpreting and supplementing the bare and cryptic sentences in accordance with our general view of the situation itself. What makes the task still more difficult is the necessity of educing our general conceptions, by which we are to expand the evidence, from the very evidence we are to expand. While it cannot be denied that it is our duty to make the most we can out of the evidence we have, it can scarcely be gainsaid that filling out the fragmentary notes of parliamentary debates is a task where the historian must be ever on guard against proving by elaborate deductions the very premise with which he started. Even should this difficulty be successfully surmounted, it will hardly be fair to judge the issue between Charles and his Parliament, by accepting as the truth his Parliament's views of the fundamental forces opposed to the King and the legality of the King's acts. If we dismiss on the score of blindness and prejudice the views clearly set forth by Charles and Strafford, shall we accept as true the views of Eliot, Pym, and Hampden, when we can ascertain those views only by reconstructing scat-

[1] Gardiner, *History*, IX, 231–234, footnotes.

[2] Gardiner, *History*, IV, 29, note.

[3] Gardiner, *History*, IX, 105.

[4] Gardiner, *History*, IX, 120.

[5] Probably it could be shown that the famous "Apology and Satisfaction" of 1604 had been interpolated, as it seems more advanced in political ideas than any other document written before 1646. Gardiner's footnotes contain many notes of famous bits now shown to be unfounded.

tered and contradictory notes in the light of what we assume the situation to have been?

This Gardiner has done.[1] "I cannot agree with Ranke in holding that the draft in the State Paper Office is more accurate than that given by Rushworth. *It leaves out all about the privileges of Parliament.* The printed speech in the King's Pamphlets, used by Mr. Forster, is not perhaps to be taken as being literally Pym's as it was spoken. There was no thorough system of shorthand in those days. But it has every characteristic of Pym, and most probably was corrected by him, or by some one present on the occasion of its delivery, and I have quoted from it as from something better than 'a later amplification.'"

Here on the question of the comparative value of two accounts, Gardiner chooses the one in print which contains material on the privileges of Parliament and rejects a contemporary manuscript account which leaves them out. He also uses a printed speech which he admits is not the one delivered, which is clearly one meant to influence people's ideas, because he thinks it "sounds like Pym." Yet Gardiner's idea of what Pym was like does and must come from this very speech and others like it which he selects in a similar fashion. A few pages later (p. 114), he says that he dares not trust Clarendon's narrative of this Parliament because it is so inaccurate. In other words, because Clarendon disagrees with the account given by the parliamentary leaders themselves, Gardiner rejects his version as inaccurate. Suppose Clarendon and the manuscript speech of Pym's which left out all about privilege substantially agreed.

Is it not extremely significant, in view of all that can be said regarding the untrustworthy character of the evidence available on parliamentary affairs, that manuscript accounts are in existence which omit much or all of what has so long been regarded as the very marrow of the events? And is it not also significant that we find the gist of the parliamentary case clearly set forth only in those papers which we were intended to read?

[1] *History*, IX, 105. See also VI, 77, where he selects one document "because it looks more like words actually spoken than that given in Rushworth." When the best narrative we can make is based on deductions as slender as this, ought not that fact to be constantly borne in mind?

What does the historian usually do with evidence manufactured for his eyes? Does he usually accept it as against other first-hand evidence which he was plainly not meant to see?

Another example may not be amiss. Gardiner tells of a demand in May, 1640, that military charges should be remitted by the King, in addition to ship money, in exchange for the twelve subsidies. This demand, he says, brought matters to a head between House and King, and the Council voted next day for a dissolution. The military charges hence became extremely significant. In a footnote [1] he says, "by entirely omitting the matter of the military charges Clarendon reduces the whole affair to a personal question. My account is founded on two completely independent statements. There are among the State Papers some notes (S. P. Dom. cccl. 94) which I believe to have been drawn up by Rossingham for circulation amongst his correspondents." The other account was a letter of Northumberland's. Here Gardiner rejects Clarendon as untruthful on the authority of some scattered notes, authorship unknown, and a letter from a nobleman who was at this time discontented with Charles and who later joined the parliamentary party. He prefers manuscript evidence which contradicts the royalist accounts but prefers the printed parliamentary accounts to manuscript evidence inconsistent with them. His accounts of the plans and acts of the parliamentary leaders on the remainder of this same day (May 4), and on the night of the 4th and 5th, is drawn, he tells us in a footnote,[2] "from an anonymous deposition and a paper of interrogatories founded on it." Why should we accept as of the first consequence a paper of whose authorship and trustworthiness we know nothing? There is just as much reason for accepting any other of a thousand curious documents and papers connected with this period. Without laying too much stress on a few cases, where we may ourselves be making unwarrantable assumptions, do these instances not make clear the singularly unstable evidential basis of the whole structure?

[1] *History*, IX, 115.
[2] *History*, IX, 117.

In the holograph letters of Charles, Buckingham, Bacon, Laud, Strafford, and the rest of the officials, ecclesiastical and temporal, we find an extremely different idea of the nation and of the legality of the King's acts from that found in the Debates. These men denied that Parliament represented the nation; in particular, they conceived of the nation as stupid, ignorant, and incapable. And they denied that the people were hostile to the Crown.[1] Whatever else may be alleged of this evidence, it is certainly clear, consistent, and voluminous. Nor can it be claimed that these men, equipped with all the resources the age afforded for acquiring information, and furnished by circumstances with pressing reasons for understanding the situation, were not as much in a position to know the truth as were the parliamentary leaders. Furthermore, we have secret and private correspondence which was not written for posterity's eye. We have Laud's private diary with a most complete and detailed account of his plans, thoughts, and deeds; Laud's and Strafford's most secret correspondence covering a long series of years; Charles's familiar letters to his wife, besides innumerable formal papers and dispatches. We are reading the real thoughts of the King and his friends in what are unquestionably original papers.

We derive our ideas of the Parliamentary party in the main from books which they wrote for us to read, and which we have many reasons to believe were not printed as they wrote them.[2] Neither Pym's secret diary nor his correspondence with Hampden are forthcoming. It is worthy of note that so few papers

[1] James told the House in 1604: "This House doth not so represent the whole Commons of the realm as the shadow doth the body, but only representatively. Impossible it was for them to know all that would be propounded here, much more all those answers that you would make to all propositions. So as I account not all that to be done by the Commons of the land which hath been done by you," quoted Gardiner, *History*, I, 191. Gardiner calls this a "flippant strain." He declared this the dominant opinion of the Court (*History*, IX, 157, 158). This was Strafford's idea (*History*, IX, 128); also Charles's (*History*, IX, 217); and Bacon's (*History*, II, 206, note, quoted).

[2] Most were printed during the Commonwealth or just before or after the Glorious Revolution of 1689; at both dates little was likely to be printed which did not support the Parliamentary claims.

are left written by or relating to those two men, that we are forced to guess at what manner of men they were and to reconstruct their lives from chance words let fall by their contemporaries and from the scattered and fragmentary notes of parliamentary debates.[1] Cromwell, St. John, and most of the men in the thick of the struggle between 1625 and 1642 have left no considerable number of papers relating to that period; of those, few are of any value or significance; and even these tell us nothing about plans or political ideas. We know what Charles and his supporters thought; we can only guess at what Pym and his friends thought or did. Yet Gardiner, following all other historians, has accepted the latters' opinions as correct. Surely the scientific historian should not make such a choice as this without explanation. The only explanation vouchsafed, however, is that Charles and his officials were blind to the truth, and either incapable of seeing or unwilling to see what Gardiner thought so clearly demonstrated by the leaders in Parliament.[2] This Gardiner proves by Charles's insistence: that the parliamentary leaders did not at all understand the situation and that they did not represent the nation. Gardiner is sure they understood it, and, if the King disagreed, the King must have been wrong. On this point, he founds his conception of Charles. But the whole structure depends upon his belief that the parliamentary leaders alone understood the people and this he proves by reading their fragmentary statements in accordance with his assumptions as to what their views were.

Not only is the evidence fragmentary, vague, difficult to interpret, and totally dependent upon this very interpretation for whatever significance may be allotted to it, but, in inter-

[1] Gardiner recognizes this: *History*, IX, 223. See Nugent's *Hampden* or any of the meager lives of Pym. Probably they carefully destroyed all their papers on the outbreak of the war, when the records of the High Commission and most of the other prerogative courts seem also to have been purposely destroyed.

[2] Charles (*History*, V, 318, VI, 329, VIII, 299; *Civil War*, IV, 326); Strafford (*History*, VII, 138); Bacon (*History*, II, 269); Raleigh (*History*, II, 271). Raleigh says, in his *Prerogative of Parliaments*, that the great Charter "had first an obscure Birth from Usurpation, and was secondly fostered and shewed to the world, by Rebellion."

preting it, we must beware of reading into it the very conclusions we desire by assuming that the words "nation," "people," "liberty," "freedom," "birthright" meant to them what they mean to us. Even after we have with difficulty collected evidence which apparently proves the existence of such a nation as Gardiner believed in, we have still to inquire into the usage of words in the seventeenth century. Few words have been used by historians in more senses than the word "nation." They have usually not defined it at all, or even recognized that definition was necessary. Of the need of definition, the Political Scientists have been conscious, but even among them there is as yet no general agreement as to what the usage of the word should be. "Nation," of course, signifies a number of individuals who are all conscious of the same thing, but it has been generally used so as to convey the idea that, if a body of individuals were conscious of anything, they would be a nation. To-day national consciousness is an extremely complex notion containing every sort of an idea, social, economic, religious, and political the world has ever seen. But it is to-day dominantly political and means above all a people conscious of its political existence and of its right to govern itself, and desirous of establishing a broad consensus of opinion as to what the policy of the state ought to be. It is perfectly correct to speak of our English nation in the time of Alfred, but if we suppose the word to denote any such conception as this, we shall have introduced as great an anachronism as if we represented Alfred telephoning for his monoplane. Yet historians of the Middle Ages much more trustworthy than Freeman have commonly used the word in exactly that sense,[1] and the historians of the Tudor and Stuart period[2] in doing the same have been committing an anachronism whose consequences are infinitely more grave, because the idea is itself infinitely more credible in Stuart times than in Anglo-Saxon or Norman days.

Nor is the difficulty of defining the word lessened by the fact that to define it we must decide what the English people were conscious of at a particular moment. It is fortunately not

[1] *E. g.*, Stubbs, *Constitutional History*, II, 593; III, 260, 261.

[2] Not only Gardiner, and his predecessors, but Gairdner, Pollard, Trevelyan, and a host of lesser historians.

necessary here to do more than advert to some of the more obvious shades of meaning in which the word has been used. The earliest common tie of which individuals seem to have been conscious was the blood-tie, first of the family, then of the tribe, and so finally of race. All we probably see in pre-Norman times and perhaps later was the blood tie of the German tribe. Then we find in Norman times a resultant consciousness that men are bound by "a common (tribal) law," a consciousness of the same civil obligations towards each other, or a willingness to abide by certain common traditions. About the time of the Hundred Years War, in a sense its cause and its greatest result, comes a sense of racial differentiation of the English from other "nations" [1] and a growing sense of antagonism between the economic interests of this race and those of other races, fostered in England by the growing sense of geographical isolation consequent upon the loss of her continental possessions. This economic antagonism, the discovery of the New World and the expansion of commerce intensified, and, beside it, the Reformation placed the consciousness of religious difference between English and French and Spanish.

In this religious, racial, and economic sense, the statesmen, lawyers, and gentry of Stuart England seem to have used the words "nation" and "people" at least till the meeting of the Long Parliament. [2] Since 1640 the political consciousness of the English people has been a gradual growth, beginning with the conception that the individual had some interest as to how he was governed, thence proceeding to the notion that he ought

[1] The *New English Dictionary* recognizes only this meaning as preceding the political significance and does not attempt to indicate where the one ends and the other begins.

[2] The evidence is too voluminous to be quoted. Yet on the whole the reader will be amazed to see how infrequently the words "nation" and "people" were used. Coke uses them almost never, preferring "realm" or "kingdom" (see, however, his V Reports, viii). Most statesmen and Parliament men preferred "commonwealth" (see especially Sir Thomas Smith, and *Commons' Journals*, I, 462). Wentworth used them often as synonymous with "this race" (*Strafford's Letters*, I, 349, 351, 352, 353, 360, 368, 394, etc.). The Scotch manifestoes spoke of "We Noblemen, Barons, Gentlemen, Burrews, Ministers, and Commons" (Rushworth, *Collections*, II, 756 and *passim*), and pretty usually omitted the last. The English Parliamentary petitions and resolutions usually employed "Commons" or "Parliament" or "people," rarely "nation" even after 1640.

to be represented in the counsels of the state as an individual, not merely as part of some class, and finally reaching the idea that the whole people could and did evolve amongst themselves a consensus of opinion which ought to direct the policy of the state. Until the political "nation" has definitely displaced the racial "nation" in ordinary usage, it can hardly be maintained that the English people were *conscious* of political nationality in the modern sense [1] The word was in fact rarely used.

Moreover, when the men of the seventeenth century did use "nation" and "people" in a political sense, there is every reason to believe that they meant to connote the mediæval conception of the State which Giercke has so lucidly and brilliantly set forth. The conception that the King and his People each had rights, that the King could do nothing contrary to the welfare of the People, whom Parliament represented, was old when Ockham and Saint Thomas Aquinas wrote. But they had in mind the People as a unit, a social mass in antithesis to the King. The Law of Nature and Divine Law invested it with rights which some mediæval thinkers declared inalienable. People and King made up the State; and between them possessed all rights there were. But the "People" was an organism, not a body of individuals, each with rights.[2] That the People's rights as an organism were political, that they included a share in legislation or a right to vote, still less a right to decide upon the policy of the State, no mediæval statesman supposed. Historians have

[1] In Eliot, says Gardiner, "spoke the voice of a mighty nation, conscious of its powers and impatient of the tutelage under which it had been thrust." *History*, VII, 192.

[2] See, for instance, Wentworth to Charles, 1634; he urges him to secure religious unity between England and Ireland "to make us an happy and secure People within ourselves." (*Strafford's Letters*, I, 367). Compare Wentworth in 1628, Gardiner, *History*, VI, 236. See the Remonstrance on Tonnage and Poundage, 1628 (Gardiner, *Documents*, 5) and Rushworth, *Collections*, II, 3, 12, etc. Hakewill's speech on ship money was based on this mediæval conception of the State. Pym's notable words at Strafford's trial are pure mediævalism. "The King and his people are obliged to one another in the nearest relations. . . . He is the husband of the Commonwealth; they have the same interests; they are inseparable in their condition, be it good or evil. He is their head. They are the body. There is such an incorporation as cannot be dissolved without the destruction of both" (Gardiner, *History*, IX, 333). This idea is forcibly stated in Smith, *Commonwealth of England*, Book II, ch. I. Mr. Alston in the introduction to the edition of 1906 has lucidly and learnedly shown that Smith's ideas were mediæval and not the modern conception with which he has usually been credited.

been usually satisfied when treating political ideas under the Stuarts with quotations from Smith, Selden, Raleigh, or Bacon, and have not yet gone to the trouble of finding out what the average statesmen and lawyers of the period actually thought. It seems far more natural that they should have retained the old fundamental conceptions of the Middle Ages as postulates from which to proceed than that they should suddenly have embraced modern notions. The longer we study political science the less it seems likely that new fundamental ideas become evident without a long period of preparation which is not at the time at all obvious.

The moment we regard the individual as the unit and not society itself, the words "liberty," "freedom," "birthright," take on new meanings. Rousseau has firmly planted in most of us the notion of inalienable rights adhering to the individual and endowing him with complete liberty and freedom to do anything which does not injure his neighbor. "Liberty" now means almost "uncontrolled," and it confers on the individual vague, indefinite, sweeping freedom as against every one and every thing and in particular from all control by kings and statutes. But the Levellers were told that such ideas were not only contrary to the laws of God and man but were subversive of the state itself. The seventeenth century Englishman, at least before the Civil War, thought of "liberty" as a perfectly definite privilege granted to the community by tradition or by the king; it was what the common law insured the individual; it was to be obtained from and secured by the courts. "Liberty" and "freedom" were synonymous with "privilege," "vested rights," "rights recognizable in the Courts;" and meant not that the individual might do anything, but that he had a right to enjoy certain definite privileges.[1] A man had the "freedom" of the

[1] How is it possible, for instance, to make sense of Prynne's words with another meaning than this? Prynne at the pillory, 1637: "Had we rejected our liberties, we had not stood here at this time; it was for the general good and the liberties of you all that we have now thus far engaged our liberties in this cause. For did you know how deeply they have encroached on your liberties, if you knew but into what times you are cast, it would make you look about, and see how far your liberty did lawfully extend and so maintain it." *State Trials*, III, 748. See the words of Wentworth quoted by Gardiner, *History*, VI, 236; or those of Pym, *idem*, 313-314; all the petitions had been "ever Petitions of Right demanding their ancient and due liberties." See also Gardiner, *History*, VI, 109, 262, 268; *Parliamentary History*, II, 330, 331; Prynne, *Works*, III, col. 1651.

city; a city possessed the "liberty" of holding a market or of hanging thieves; the "birthright" of the Englishman was the enjoyment of all the traditional rights recognized by the community into which he had been born.[1] As Justice Berkeley said in Hampden's case, Englishmen "have a birth-right in the laws of the kingdom." "Freedom of conscience" meant the right to disbelieve in the pope and follow Luther, Calvin, or Henry VIII; it did not in the least mean a right to think and worship as one pleased. The "popular party" was then used in the sense in which we now speak of the Socialists or even Anarchists. To accord these mediæval phrases the meanings settled upon them by Rousseau is to introduce a serious anachronism into our study of the Puritan Revolution.[2]

The best evidence to quote against Gardiner's conception of the nation on which his first ten volumes are built, is his idea of the nation upon which the *Commonwealth and Protectorate* rests. It is hardly credible that the nation developed backward, that an intelligent, alert nation, which had actually expressed political opinions outside Parliament for at least forty years prior to the Long Parliament, should have lost all those attributes during the war and have been in 1650 inert, ignorant, uneducated in political affairs. Nor is it likely that a nation, widely hostile to the very suggestion of tyranny in the decades before the war, should have become by 1650 indifferent to political ideas and methods and ready to accept any government which promised simply the protection of life and the furthering of trade and commerce. This idea of the nation has behind it his mature judgment and his final research. It coincides closely with the opinion of the people held by Charles, James, and Strafford. There is in it nothing inconsistent with the statements of the parliamentary leaders; this conception explains their evidence even better than the older view.

[1] Lilburne seems to have first definitely used the phrase "free-born Englishmen" in a political sense in 1637 (Rushworth, *Collections*, II, 463). The word "Patriot" (rare at this time) occurs in 1624 (*Strafford's Letters*, I, 22).

[2] Gardiner well knew that words did not bear modern meanings in 1640 (*History*, V, 399). Macy (*English Constitution*, 289) says of the years before 1640, "The exigencies of debate required frequent appeal to something which they are pleased to call the nation, or the people. These phrases had meant nothing in particular."

Another fact in point, demonstrating that such evidence of discontent as we have does not necessarily prove a general or national hostility to the King, comes from the pretty definite proof that the Puritan petitions of the last years of Elizabeth and the first years of James were collusive documents drawn up by a few unauthorized men to create precisely the impression which they made upon men of the time and upon historians since—that the feeling in favor of Puritanism was very general.[1] On the strength of these it was long supposed that a very considerable proportion of the English people were Puritan. Nor was this testimony against their genuineness manufactured. We have holograph documents written by the men themselves to each other about the scheme, besides their own records of the meetings and conferences in which it was approved. Naturally, a conclusive demonstration of such a situation in 1586 and in 1603 proves nothing at all about the year 1639, but it does at least raise a presumption that these same men or their sons had not forgotten the impression created by their earlier manœuvre, and that they availed themselves of similar methods in the struggle with the King. Certainly, no fact was supposed by historians to have been better demonstrated than the general existence of this strong Puritan feeling in 1603. May not the strong "national feeling" of 1628 and 1640 prove as fallible? Would not the demonstration of that fact exactly accord with Gardiner's reading of the apathetic national attitude during the Protectorate and with the opinions of Strafford and of Charles?

In addition we have a strong argument from analogy. Despite the undeniable progress since 1660 in the shaping and expressing of national sentiment, despite the vast multiplication of media in which it may find utterance, statesmen still contradict each other roundly as to the preponderance of the national voice. No Unionist to-day would accept a batch of Liberal letters, however numerous or enthusiastic, as conclu-

[1] The proof is set forth in detail in Usher's *Presbyterian Movement in the Reign of Queen Elizabeth*, and in his *Reconstruction of the English Church*, I, 290–298; 306–308; 343–346; 417–419.

sive proof of what England wanted.[1] After a prodigious amount of orating and writing upon home rule and woman suffrage, in which the propagandists unquestionably outdistanced their opponents in mere number and volume of speeches and articles, the opinion of the country is still doubtful; nor does any one suppose that the number of petitions and speeches in favor of woman suffrage is conclusive evidence that the country is behind them. With all the assistance modern conditions can provide, George V still finds it hard to make up his mind about what his people really think and about the direction in which their real welfare lies. Why then should we assume that a goodly correspondence, numerous petitions, a few law suits, some speech-making in Parliament, is conclusive evidence of the nation's opinion in 1640? We would not to-day upon a many times more pretentious showing conclude anything of the kind.

Of course the circumstances of the two periods are utterly unlike, and parliamentary conditions were by no means the same in 1629 when Eliot's famous resolutions were read. *But our idea of what conditions were in 1629 is still largely based on such assumptions as this.* We *know* in fact very little about the actors, parties, and policies at that time; we are forced to guess and deduce from a few straggling words or a couple of incoherent sentences the whole scenario of an excited debate. If we knew as much about Eliot's ideas and associates as we do about Mr. Redmond's, or had as full a report of the proceedings, is it not at least possible that we might find our assumptions unwarranted? Indeed, it might be maintained that parliamentary votes and speeches did not have then anything like the significance they have now, and, if anything, would possess by inherent probability less rather than more importance, would have received less instead of more credence and support. Why then should we *assume* without a tittle of positive first-hand evidence conclusively to prove the fact that they possessed a significance

[1] Much less would we accept the vote of a city corporation as evidence of national feeling. Yet Gardiner treats an election of the Recordership of London in 1618 as a test of national feeling! (*History*, III, 216.)

and permit deductions which no statesman would to-day assign to similarly radical events in the House? To reply because the House was then fighting the Crown and now is doing nothing of the kind, is merely to repeat the assumption: these events we assume to prove that the House and Crown are locked in deadly conflict; because the House and Crown are fighting each other, we assume that these events are extremely significant. It is the old argument in a circle over again. In truth, what was said in the House between 1603 and 1640 has been treated as important principally because it was assumed to have had an effect upon the nation. And we still depend largely for our ideas of what "the nation" thought upon speeches in the House of Commons.

Here, too, we meet an important fact to be urged in defense of Gardiner's use of the word "nation;" he meant the "political nation," those who had political power and could use it, "the nation" which Parliament represented. It should not be necessary to rehearse at this date the time-worn arguments used by the reformers of 1832 in riddling the so-called representative character of the old House of Commons. If the history of the nineteenth century proves anything at all, it conclusively decides that the world now regards a uniform franchise and proportional representation as the minimum requirements for valid representation. But it still remains to apply the conclusions of 1832 about the electoral provisions of James I's reign to the situation during his life. If a majority elected by the rotten boroughs in the East and South, by the royal boroughs in Cornwall and elsewhere, by a few gentry in the counties, and by a few merchants in the towns, was not capable in 1832 of expressing the hopes and fears of all classes of the community, it is nothing short of extraordinary that this representation should have been adequate in 1603. It may have been the best obtainable; it may have represented at that date every class, and perhaps nearly every individual, capable of having political ideas; it was certainly generations ahead of popular government in Europe at that time; and, crude, selfish, prejudiced, and corrupt as it was, it fought bravely for personal interests which were in the

main those of the people at large. But, if such is its character, let us not belie it by calling it representation, or by assuming that a body of rich landlords and merchants, with the common lawyers of London and vicinity, spoke literally and actually by an authority consciously conferred upon them by the whole people of England. In a sense, they represented "the nation;" in a sense, their interests were identical; but in the modern sense of the word this little band of men spoke for themselves alone and, as Gardiner says, fiercely denied the right of agricultural tenants and artisans to share in the government.[1] They saw around them a great mass of dull, inert yokels, struggling with the problems of existence, and heeding little the questions of administration and religion which they well knew they did not understand. The trouble with democracy at the present day is that so large a proportion of the people in even the most enlightened communities do not possess actual political wisdom and discrimination on even great issues. How improbable then is it that "the nation" in any proper sense of the word was watching Buckingham and Laud and critically examining their conduct in little things? The conception rests upon the assumption that "the nation" could then do well what it does to-day imperfectly or not at all.

[1] *History*, X, 13. Having failed to apply these critical ideas to the House of Commons it seems unfair for Gardiner to apply them to the Church, and to insist that the chief weakness of Convocation was its lack of representative character. The Canons were "in no sense at all the voice of the English people" (*History*, IX, 144). Surely, Convocation represented England far more in accordance with modern ideas (Catholic and Puritan notwithstanding) than did the Parliament.

VII

THE VALIDITY OF GARDINER'S CONCEPTION OF PRECEDENT AND LAW

Gardiner's ideas of "the Elizabethan constitution," and of "the English constitution" were, as we have seen, considerably confused. At one moment, he treated the Elizabethan constitution as "representative monarchy" where by unwritten law the King must follow the nation's opinion; at the next he declared that the gist of the Tudor Constitution lay in the responsibility of ministers to the King, who personally possessed power to direct them in accordance with his wishes. The English constitution, he tells us on one page, was based upon the responsibility of the Crown to the nation; on another that its root was the royal prerogative; and on a third that it was based upon some combination of the prerogative of the Crown and of Parliament. Even if all these conflicting statements could be so harmonized as to show that no essential contradiction of thought lay behind them, it would be difficult to deny that this confusion of terms is in itself a substantive error of the first magnitude in a book whose main topic is constitutional history. The quarrel between King and Parliament is outwardly only the citation of precedent on legal and constitutional questions, whose comprehension and elucidation depend wholly upon a clear conception of the previous history of the "constitution," of Parliament, and of the law. While so much is essential to the very understanding of the subject at all, every judgment or criticism, which the historian vouchsafes, is even more necessarily dependent upon his conception of constitutional and common law. Finch's arguments can be denominated "outrageous" and Strafford's conception of the Elizabethan constitution "monstrous," only when the historian believes that past precedent proved St. John's and Pym's contentions so clearly legal that no honest and fair-minded man could have denied their validity. About this view of precedent must be built the general conception of the Revolution itself; upon it

will necessarily depend any view of its causes, character, and results, and above all any decision as to its legality and justifiability. The rejection of Gardiner's conception of the "English nation" invalidates his idea of the causes of the Revolution and his conception of the characters of its actors. The denial of the accuracy of his notions of precedent invalidates his conclusion regarding the legality of the Revolution.

The reading of early English history which Maitland,[1] Jenks,[2] McKechnie,[3] and McIlwain [4] have given us proves that both of the combatants of the seventeenth century were wrong: history and precedent do not sustain the actual claims of either King or Commons. We are beginning to see more and more clearly that the Middle Ages was a time of the fusion of power, when the Magnum Concilium, or the Parliament, or the Privy Council was judiciary, legislature, and executive all at once, and did everything that needed to be done by the use of the same powers and forms.[5] The precedents made by such action under a fusion of powers could not well prove the right of the King to develop a new executive department to enforce a new ideal of administration, nor yet demonstrate the legality of the claims of the Commons to exercise a supreme legislative authority of which their predecessors never dreamed. Both sides were innovators. Moreover, Professor McIlwain's brilliant essay has shown that in the seventeenth century, despite the very real legislative power it exercised, Parliament was considered till 1640 to be rather a court than a legislature, a law-declaring rather than a law-making body.[6] The revolution of 1640 is the

[1] Especially the prefaces to the Year Books and the Parliament Roll.

[2] *Law and Politics in the Middle Ages.*

[3] *Magna Charta.*

[4] *The High Court of Parliament* (1910), Yale University Press. This brilliant book has made the citation of original authorities a work of supererogation in a short chapter of this sort. Professor McIlwain's acknowledgments in his footnotes and his own modesty have tended to obscure the really epoch-making nature of his achievement.

[5] McIlwain, 16, 17, 115, 119.

[6] McIlwain, 134, *et passim.* Such statements as those of Rushworth in the preface to Part II of the *Collections* are in the main responsible for the antedating of the idea of legislative supremacy. "I suppose most men cannot but wish to know in particular the Arts and Methods used in Government in such a long suspension of the exercise *of the Supreme Legislative Power*, so that neither the King could have any Assistance from the People, to support the Honor, Strength, and Interest of the nation; nor the People any Relief of their pressing Grievances or any Provisions made by Law for the Security and Advancement of their common welfare."

study of the *beginning* of a sharp distinction between the High Court of Parliament as the highest Court of Appeals, and the Parliament as the supreme legislative authority in the realm. Actually, perhaps, Parliament was even then more a legislature than a Court, but men did not believe it.[1] The strenuous attempts of Eliot and Pym to prove their ideas old, to show that they claimed nothing not already in existence, alone show how difficult they found it to conceive of Parliament as a supreme legislature, which was not bound by past precedent, but which might itself do as it pleased, and find its justification in the mere existence of its desire. Their eyes were searching the past, not the future;[2] they were trying to replace what they believed had once existed, not trying to make a new constitution adequate to the future needs of the English people. This single conception of Parliament as a court, of Pym seeking to "declare" once more the old law, makes untenable the constitutional and legal fabric on which Gardiner's volumes are based.

All the controversies of the time hinge upon one: where lay the residual power, the ultimate sovereignty, the right to decide, the discretionary authority? That, all were agreed, depended largely upon the origin of the "constitution." The Crown lawyers [3] declared that in the beginning the King's prerogative was, and that all the courts and administrative bodies then in England had been created by the grace of the King in delegating to them parts of his power. The statutes and the decisions of the courts showed definitely what powers these various bodies (including Parliament) had exercised. The residual and dis-

[1] The heavy judicial work done in Parliament up to the times of Edward IV was shifted to the new courts gradually created to handle it. By 1625, Parliament was doing very little actual judicial work; and in this the House of Commons had a very small share, if indeed any at all. McIlwain, 132–134.

[2] This is the very antithesis of Gardiner's conception.

[3] In Bate's Case, the Five Knights' Case, Ship Money, etc. James I's *Works* also are full of this conception. The words of Berkeley are especially noteworthy: "I now come to my second general head, wherein I propose to consider of the fundamental policy, and maxims, and rules of law, for the government of this realm, and of the reasons of law pertinent to our case, which are very many. I will briefly and severally point at those which make impression on me. I. It is plain that originally even before the Romans' time, the frame of this kingdom was a monarchial state, so for divers hundreds of years past, upon the Romans' desertion of it, and after the heptarchy ended, it was, and continued, and still continueth monarchial. And our gracious sovereign is a monarch, and the rights of free monarchy appertain unto him." Gardiner, *Documents*, 51.

cretionary authority the King had kept in his own hands.[1] Nor had he by securing a certain end at one time by a certain means precluded the possibility of attaining it at another time by a totally different method. The power which had made might unmake; the hand which had granted might take away; and, the discretion resting with the King, it was not for courts and parliaments to criticise his use of it. The very notion of executive discretion necessarily included the right to decide finally without accounting to any one.

The common lawyers, led by Coke, asserted on the other hand, and were followed by the Parliamentarians of Charles's reign, that the origin of all things lay in the Common Law.[2] As to what that was, when it had arisen, they were not very clear.[3] The notion of a fundamental law as a law of superior obligation above kings, parliaments, and all earthly authority had been a familiar part of mediæval political speculation, and had derived, as Giercke has so learnedly shown, immensely strong support from its confusion with the Law of Nature or the Natural Law of the Civil Lawyers and with the Divine Law of the Canonists. All of the attributes of supremacy, omnipotence, and perfection that mediæval speculation had ever connected with any law of superior obligation were now assumed to be a property of this "fundamental law" of the English constitution. The significant step lay in the identification of this fundamental law with the Common Law, and the assumption that the Common Law mentioned in the law books and statutes and interpreted

[1] McIlwain, 201–202.

[2] Especially Hakewill on Impositions and Holborne on ship money; but everything said on the parliamentary side between 1604 and 1640 is clearly colored by this conception. Says Hakewill, "whether that profit upon merchandises which the common law for these respects *gave unto the King*, were a duty certain or whether the common law hath *left an absolute power in the King* to demand in this case more or less at his own pleasure and to compel his subjects to pay it, etc." Prothero, *Select Statutes*, 343.

[3] Judge Doddridge carried Parliament back to the Romans; Hearne, *Curious Discourses*, I, 289; Pym carried the law back to the Saxons; quoted by Gardiner, VI, 314. Usually men fell back on the apposite old legal phrase, that the memory of man had never run to the time when the Common Law was not.

by the judges was the one meant.[1] Instantly the Common Law became the creator of kings, parliaments, and courts, assigning to each its special domain, but retaining in the Common Law itself the residuum of authority.[2] The King had, therefore, only what had been granted to him by the Law, which was over the King; the statutes showed what he might do, and every prerogative he was not expressly granted in Year Book or statute, he did not possess. Parliament and the courts were also limited, but they were not limited by the King, nor could he decide what their limitations were. The supreme power in the realm under the Law was Parliament, whose declaration of the Law was law in very fact.

These notions of the early constitution made controversy inevitable. The fact that certain courts existed was to the common lawyers definite proof that the King could not create others. If the "fundamental law" was the Common Law, all other laws, civil and ecclesiastical, were usurpers. The fact that the King had agreed to ask Parliament's consent to certain taxes did not in the eyes of the civil lawyers preclude his assessing others without its consent. To the common lawyer, this same fact proved that any taxes, except those mentioned, were new cases, to be submitted to Parliament as a matter of law and right. Nor could they see why matters of state, and even the extent of the royal prerogative, should not be debated in Parliament; the King's (ordinary) prerogative in matters of tenure and finance was debated daily at West-

[1] Baron Fleming in Bate's case practically denies the validity of any such assumption. This (absolute) power of the King "is not guided by the rules which direct only at the common law, and is most properly named policy and government and as the constitution of this body varieth with the time, so varieth this absolute law, according to the wisdom of the King, for the common good." Prothero, *Select Statutes*, 341.

[2] So St. John in Hampden's defense: "As therefore *the law hath put* this great trust upon His Majesty—so it hath provided other ways for a new supply." "The Parliament *by the law is appointed* as the ordinary means for supply upon extraordinary occasions," Gardiner, *Documents*, 45. The same in the courts: Dodderidge, Judge, said in 21 Jac. Pasch., "le Roy ad un prerogative cy ancient come le commencement del ley." Bendloe, *Reports*, 117.

minster, and so his (extraordinary) prerogative ought also to be debated in Parliament, the highest court of all.[1] If the (ordinary) process of habeas corpus required the jailer to certify why he detained his prisoner, why should not the Privy Council or the King himself show cause for arresting a subject? The crown lawyers retorted that this was absurd: a subject asking the King to imprison another subject should show cause for his detention; but to say that the King should inform himself why he arrested a prisoner was foolishness. The right to decide in the one case whether the cause was sufficient, dispensed with the need in the other case to show cause at all: no one could assume that the King would free a man committed by a subject on insufficient cause or detain a man himself without valid reason.

That the royalist idea of English history was much more nearly correct than that enunciated by the Parliamentarians, few will now doubt. So far as any agency "created" the "constitution," the crown did it.[2] But we are coming to see more and more clearly that it is inaccurate to talk about creating constitutions in the Middle Ages [3]—all the conceptions connoted by those words were as foreign to Henry II and Edward III as the telegraph and the aeroplane. The Curia Regis, the itinerant justices, the jury, the Parliament, and the rest of the long hierarchy down to the days of Charles I, were slowly developed for the convenience [4] of the men who were doing the business

[1] "Mr. Chancellor.—Not to dispute what is Law; rather to ask the judges what is law. Mr. Fuller.—It was disputed in the exchequer; why not here?" *Commons' Journals*, I, 430, May 22, 1610. "And whereas, in this case, the Subject's Rights on the one side and your Majesty's Prerogative on the other, cannot possibly be severed in Debate of either: we allege that your Majesty's Prerogatives of that kind concerning directly the Subject's Right, and Interest, are daily handled and discussed in all Courts at Westminster, and have been ever freely debated, upon all fit occasions, both in this, and all former Parliaments, without restraint, which being forbidden, it is impossible for the subject either to know, or to maintain his Right and Propriety to his own Lands and Goods, though never so just and manifest." On this point hung all the arguments on freedom of debate. *Commons' Journals*, I, 431.

[2] McIlwain, 186.

[3] McIlwain, 61.

[4] McIlwain, 181 ff.

of the community, and trying to do it as quickly and cheaply as possible and to get out of it for themselves as much credit, power, and wealth as they could. The constitution was never created; it grew; it was not developed to protect abstract rights, or to prove theories, but to do business in the manner most satisfactory to the King and his great lords. None of the early kings seem to have had any very definite ideas about royal prerogative or discretionary authority, and we can be pretty certain that the first members of the House of Commons did not talk about birthrights and privileges. But we are even more certain that the King did all the work that was done, and that the great bulk of it was neither legislative nor executive, but judicial.[1] The statutes, ordinances, and Year Books cannot longer be regarded as good precedents to bolster up executive or legislative claims in the seventeenth century.[2] Much that they contain of an executive or legislative nature we now see only proves that at that time the Privy Council and the Parliament had not then separated, or that the lines between executive, legislative, and judicial work were still too closely drawn for us even to say, this is legislative and that is judicial, this is the work of the Parliament, and that of the Privy Council. The mere fact that nearly every legislative, administrative, and judicial body in England was at some time or other either called a parliament, or was in some way identified with it, or sat with it or in it, made the Parliament Roll a rich collection from which the men of the seventeenth century deduced some extremely varied functions. In reality, all this seems to us to prove little beyond the fact that a few men were doing the whole business of the state, and in the early days called nearly anybody where discussions took place a parliament (*parler lour ment*).

[1] McIlwain, 44 ff.

[2] For instance, "Mr. Moore. Mr. Dyett. That there is an Act of Parliament for the sitting of a Parliament every Year, to reverse the Judgments of other Courts." Feb. 20, 1605/6. *Commons' Journals*, I, 271. But Mr. Moore and his friends could not see why this statute of 5th Edward II did not provide for a Parliament every year to discuss grievances and religious legislation. Parliament at one time undoubtedly kept the regular four law terms like the King's Bench and Common Pleas.

It has been further our duty to scrutinize and examine the precedents quoted by the Parliamentarians, and it must be admitted that, even assuming the truth of all their premises, the case looks now very black for their veracity and accuracy. They were undoubtedly uncritical and assumed often that anything old was necessarily true. Naturally enough they believed everything on the Parliament Roll was a settlement or compact with the King, confirmed and made law by all the power of the highest court of the land. But the utmost charity will not include precedents entirely beside the point, citations of cases which do not exist, wrong references, and the like, of which Hubert Hall in his *Customs Revenue* has collected so many examples from the debates on Impositions and the case of Ship Money.

Nor is it easy to harmonize the traditional reverence for precedent with the action of the House in 1607. The Speaker brought the House a message from the King to the effect that he did not need to see the petition on religious grievances they had been framing. The House was angry and determined to present it despite the prohibition. The Speaker thereupon reminded the House that there were many precedents of similar commands from the Crown; the House doubted his word and appointed a committee to look for those precedents. Sir Robert Cotton, the noted antiquarian, in time reported for the committee that the Speaker was right; he quoted precedents from Richard II, Henry IV, and Henry VI, and read a citation from the Parliament Roll of 13 Edward III "commaunding the howse of parliament to entertayne no causes in consultation but those which were delivered to them in express charge." [1] With this report the House was also angry; it proved too much. Precedent or no precedent, the House proposed to consider religious and other grievances. Only with the greatest difficulty could the conservatives secure the adoption of a compromise vote which prevented the House from then and there defying the King.

[1] See Cotton's Report in S. P. Dom. Jac. I, XIX, No. 37; *Commons' Journals*, June 16 and 18, 1606.

And in the light of this case are not the words of Hakewill remarkable? "It hath been said that the old custom of a demi mark upon a sack of wool must have his beginning either by the King's absolute power, or by a legal assent of the people, which can be nowhere but in parliament and cannot but appear of record; but because no such assent can be shown therefore they conclude that it began by the King's absolute power and infer that the same power remains still. . . . In effect who reduced all the known grounds of the common law to that certainty that now they are? *Because we cannot tell how or when they began, shall we therefore conclude that they began by the King's absolute power*, and infer that by the same reason they may be changed at his pleasure?" [1] It may be that in time we shall prove the parliamentary leaders were by no means sincerely and honestly convinced of the legality of their own case.

To censure Gardiner for the work done by historians either since his death or when the great bulk of his book was published, would be most unfair. Yet, we must again return to the fact that we are not attempting in this essay so much to judge the man as his work. At the same time, we should be recreant to our duty as critics if we were not to point out that even on the assumption that the views current in Gardiner's own day were correct, he has still much to answer for. The student must beware of minor faults in the treatment of constitutional topics, almost as detrimental to the accuracy of the book as the fundamental error, that Parliament previous to 1640 was a legislative body. In the discussion of Bate's case, he states that the impositions at that moment in force had all been laid since Mary's accession, after a lapse of the right to impose since Richard II, and he adds that no lawyer would have thought this significant. "The only question for him would be whether the prerogative in dispute had been detached from the Crown by any means which the law was bound to recognize. That it had been so detached by Act of Parliament, there can be no reasonable doubt whatever. But it must be acknowledged

[1] Prothero, *Select Statutes*, 349.

that it is difficult to lay our hands on more than one or two statutes, the language of which is so explicit as not to admit of being explained away, and that even these are open to the objections of men who had come to a foregone conclusion before they read them. Our ancestors in the thirteenth and fourteenth centuries were not careful to lay down general principles, and generally contented themselves with stipulations that no duties should be laid upon the wools, woolfells, and leather which were at that time the favorite objects of the King's rapacity. If indeed the judges had looked upon the history of those times as we are able to do, they would have perceived at a glance that such objections were utterly unworthy of attention. They would have seen the English constitution marching steadily onward under the influence of a great principle, and they would have interpreted every verbal difficulty in accordance with the law by which the progress of the nation was governed. But these things were hidden from them. They had been brought up under a different system from that under which England had grown in vigor in the days of the Plantagenets, and they required strict and unimpeachable evidence that the King did not still retain all that had once been his. Even the fact that the early kings had been accustomed continually to violate the law, and had so made it necessary that new statutes should be from time to time enacted in order to keep them under restraint, was dealt with by the judges as if it had been evidence in favor of the Crown. Instead of regarding such acts as struggles against the power of the law, they fancied that they perceived that the King had been aware that the law was on his side, but that he had allowed himself to be bought off by yielding some of his rights in return for a considerable subsidy. They were encouraged in this mistake by an idea that there had been in those times some definite system of constitutional law acknowledged by both parties, so that they were led to look upon the bargains into which the Commons frequently entered as if they had contained an acknowledgment of the rights claimed by the Crown." [1]

[1] *History*, II, 9.

Without quibbling or making more assumptions than is legitimate, do not these paragraphs contain a wholly mistaken idea of English legal thinking as it has been understood by lawyers? Does Gardiner actually believe that any lawyer at any date would have demanded less than "*strict and unimpeachable evidence* that the King did not still retain all that had once been his," or would for an instant have considered any other question than "whether the prerogative in dispute had been detached from the Crown *by any means which the law was bound to recognize*?" He seems to think that modern judges handling the same case would have overridden verbal differences by the application of their idea of the evolution of the constitution. He seems to suppose that judges to-day deduce from acts of Parliament general principles which cannot be justified by the specific language of the acts, and would assume that a prohibition to tax wool was meant to be a bar to the taxing of currants. How would a barrister fare to-day at the Law Courts who offered in evidence a reading of a statute which "could be explained away," or which was clearly contrary to current legal opinion? [1]

This same idea crops out again in Gardiner's comments on the arguments in the case of ship money. He thus introduces Lyttleton's argument for the Crown. "It would have been strange if he had failed to find cases in which English kings had occasionally taken money irregularly. The struggle between Crown and Parliament had been a conflict of strength as well as a conflict of principle and an advocate of the government might easily go astray by quoting acts of aggression as if they had embodied the very spirit of the law. When Lyttleton ascended from precedent to principle, the weakness of his case must have been manifest even to those who knew little of constitutional law." [2] Yet would judges to-day listen to a

[1] As a matter of fact, Professor McIlwain has clearly shown that the judges of the seventeenth century were accustomed to decide cases upon precisely such grounds as Gardiner censured them for not accepting, and that modern judges decline to accept any pleas of expediency as valid. In form, Coke and his followers said the same, but did not follow their preaching by their practice.

[2] *History*, VIII, 273.

plea that a prerogative often exercised by the Crown for a century or more was "an act of aggression?" It is still a part of the English constitution that the King can legally do no wrong, and the mere fact that the prerogative in question had been exercised without dispute for a century would raise a strong presumption of its legality, which only precise and cogent proof could overthrow. Gardiner expected the judges in Bate's case to follow a few scattered precedents, which he admits were open to objections and opposed to the general current of legal thought, and to follow them because expediency required it. He waved aside the numerous precedents in favor of the King in regard to ship money as "acts of aggression" which "it would have been strange" not to find, and was amazed that any of the judges considered them valid at all.

What in reality these two cases seem to show is that Gardiner believed the judges might legally base their decisions on expediency and the general principles of the constitution and disregard precedent altogether. In other words, he believed that the judges might make law. That the judges had really made law for centuries no well informed man will for a moment deny, but the judges had never made it in quite that fashion; they had carefully clung to the old legal fiction that their sole right was to declare what the Law had been, for, according to Coke, the Law was, and needed not to be made, or changed, or amended. The correct reading of precedent would infallibly develop the truth, but, by the reasoning of the Law, not by the application of ordinary reason and logic;[1] and no pleas of political expediency could be received at law, or could in any way influence or effect the precedents by which the law was established. Gardiner apparently expected the judges to enforce the very ideas whose existence they had been vigorously and consistently denying for half a century. Coke was quite capable of coming to a decision against the Crown on very slender grounds indeed, but to assume that even he would have opposed the Crown on any such reasoning as Gardiner suggests is to convict him of insincerity and inconsistency and

[1] Sidgwick, *Elements of Politics*, 2d Ed., 652, 653.

to assume that he would apply in practice the very premises which he so loudly denied in theory.

The most fundamental question in Hampden's case, as in most other constitutional discussions of the period, was the definition and limitations of the discretionary power of the Crown. Except in the immediate vicinity of the King, says Gardiner, the idea was already becoming obsolete in 1606 that "in addition to the ordinary power, the King was possessed of an absolute authority which he might exercise wherever he saw fit, for the general safety of the Commonwealth." [1] Where did Gardiner think that same discretionary power *legally* rested in his own day, if not with the Crown? If he knew that the Crown had in 1870 what it did not have in 1640, when did he think the Crown acquired it? Bagehot's brilliant exposition of what the King might personally do to-day without permission of the House of Commons or the sanction of any statute is extremely instructive in view of these debates in the seventeenth century as to whether the Crown was then possessed of the very powers it has exercised ever since. Whose power if not the King's did Gardiner suppose would be used in deciding the existence of danger to-day? That the Prime Minister really uses this prerogative does not in the least change the fact that the legal act is still undeniably the King's.

Some further light on these issues is shed by some of Gardiner's comments on Hampden's case. Holborne, he says, raised the great constitutional issue more distinctly than did St. John. "For him, Parliament, not the King, was the main organ of the sovereignty of the nation over itself." [2] Gardiner here implies that Holborne thought the people legally possessed the sovereign power in such a sense as the American people now have it, but he is thereby crediting him with a constitutional idea which was not accepted in England for two centuries and which is not yet law. It has always been the legal view since 1640 that Parliament, as King, Lords, and Commons, possesses the legal legislative sovereignty, and that the nation

[1] *History*, II, 10.
[2] *History*, VIII, 274.

only holds the legal right to choose the men who should exercise this sovereignty. The test of Austin and Dicey is that Parliament possesses the ultimate authority from which there is no legal appeal: only Parliament itself can alter its own acts. But this Parliament, they have been careful to insist is legally composed to-day, as in 1640, of King, Lords, and Commons. Gardiner's restatement of Holborne's argument was not and never has been accurate, and implies a conception which has never legally obtained in England at any epoch.

What Gardiner meant was that sovereignty was inherent in the King in Parliament and not in the King's person; hence the authority of Parliament was superior to the discretionary prerogative of the Crown; and therefore the King might not disregard Parliament even in discretionary acts. Failing to understand Holborne, Gardiner also fails to comprehend Bankes's reply: that the powers vested by custom and precedent in the King in Parliament were no bar to those always vested in the King alone; and that the discretionary powers had always been vested in the King's person. The right to levy ship money, being, as all admitted, a question of discretion, rested therefore legally with the King and could be decided without reference to Parliament. He then brought forward precedents to show that whatever the character of the levy of ship money, it had always emanated from the royal prerogative and not from the King in Parliament.

Upon this argument, Gardiner comments thus: "When he sat down it must have been abundantly clear to all who were present that if his view was accepted as the true one, the old parliamentary constitution of England was at an end. In that case, as they had already learned from St. John, no man could hold his property except on sufferance. Those who cared less for pelf, and more for the old constitutional inheritance of their race, learned from the glib utterance of a lawyer's tongue that the system under which they fondly believed that long generations of their ancestors had lived and died had never had any real existence. The assemblies of early times before the Conquest, the Great Councils of Norman Kings, the Par-

liaments of the Plantagenets were, it would seem, merely ornamental appendages to the substantial edifice of the monarchy. No doubt the King still professed his intention of ruling according to the law. No doubt the Great Charter, the confirmation of the Charters, and the recent Petition of Right would still be quoted and wrangled over in Westminster Hall, but their living force would be gone. The representative monarchy of Henry VIII and Elizabeth would cease to be, as completely as the Parliamentary monarchy of the House of Lancaster would cease to be. In its stead was to be raised the authority of a king ruling in accordance with his own inscrutable counsels, whilst the English people was to wait patiently for the decision of its master. His was the wisdom which foresees everything and arranges everything, which no contingency could take by surprise and no calamity find without resource. Theirs was the ignorance of a herd of cattle contentedly grazing in the fat pastures prepared for them till their owner thought good to send them forth to the slaughter house of war." [1]

What Gardiner thought the old parliamentary constitution was appears on the next page where he thus introduces his account of the judges' decisions. "It must not be forgotten that the question itself was rather one for political than for judicial settlement. Hampden and his supporters were only careful to establish a negative. They saw clearly that the right assumed by the King was fatal to the parliamentary constitution of England. The judges might well ask what was the alternative proposed? Was a House of Commons, as yet unguided by any cabinet and undisciplined by any party ties, to be expected to meet with wise forethought all the exigencies of foreign affairs? What was really wanted, if there was not to be a political revolution, was that the King should not only exercise his discretion, but should really be discreet, should only use his extraordinary powers in extraordinary circumstances, and should withhold his confidence from the nation no further than it might be in the interest of the nation that secrecy should be maintained for a time. Unfortunately such a consummation

[1] *History*, VIII, 275.

was beyond the power of any judicial decision to effect. Something of this difficulty seems to have been felt by Baron Weston, who delivered judgment first." [1]

Gardiner has clearly inferred that the judges actually considered whether or not the House of Commons "as yet unguided by any cabinet and undisciplined by any party ties" was to exercise the discretionary powers if the King was deprived of it. On the other hand, Gardiner declares that Charles's exercise of this discretion would be fatal to "the old parliamentary constitution." Did he suppose that Parliament had previously exercised it? It is hard to see how the old parliamentary constitution was to be destroyed by the continuance in the King of a power he had always exercised. Yet Gardiner apparently thought that, while Charles had no legal right to it, the House of Commons was as yet incapable of using it. Who then was to use it? On the next page he adds these comments: "Finch held, as all reasonable politicians now hold, that in every State some man or body of men must exist above all human control, and that though this supreme authority may be wisely subjected to checks and hindrances, it must be able in case of supreme necessity to brush aside those checks and hindrances without appeal. This power, *which is now attributed to the constituencies,* was by Finch attributed to the King."

Surely this is very peculiar constitutional law for a scientific historian to utter regarding a conception which underlies his whole subject! That the nation now actually decides all important questions no one can deny; but the legal discretion and power to act is not now supposed to rest with the constituencies or with the nation in general. The sovereignty still is legally in the King in Parliament; the discretionary power Gardiner here describes still legally rests in the Crown alone; but it is now exercised in accordance with convention by the Cabinet. That such a misconception of the whole character and type of English judicial thought should not leave substantive errors of the first magnitude in a constitutional history of England, is hard to believe.

[1] *History,* VIII, 277–278.

When volume four of the *History of England* was first published under another title, the *Atheneum* pointed out another legal blunder of the greatest importance. From the fact that the blunder still reposes in the final edition, we might reasonably infer that Dr. Gardiner thought the criticism unfounded. In 1621, when Bacon's misconduct was under consideration, James suggested to the Houses that the best way to deal with the matter would be for him to appoint a royal commission.[1] After discussing whether Parliament itself was not more independent than a commission and hence better fitted to discuss the case, Gardiner gives a lack of independence as the chief objection to "the new tribunal which James proposed to create;" and added that a second lay in the fact "that the innovation, if once permitted to come into existence, would be converted into a precedent." Gardiner, too, is rather surprised that "James very nearly carried his point" but he explains it by the "enticing" character of his scheme to "superficial observation." "The amount of ignorance displayed in this passage," said the *Atheneum*, "is amazing. Mr. Gardiner appears to think that it was and is the practice in England to appoint judicial commissions by some machinery other than that of the Crown. . . . The practice was and is for the Crown to appoint all such commissions. Such a blunder on the part of Mr. Gardiner is fundamental and vitiates the whole train of what he calls his reasoning on this complicated and difficult case." [2]

We might have reasonably expected some consideration of "the fundamental laws of England" which would tell us what they were and what they were thought to be, with some critical estimate of the value of the seventeenth century conception. Gardiner, however, seems to wave the question aside as of no importance. "It mattered little that no one could point out what those fundamental laws were, any more than their ancestors could have pointed out precisely what were the laws of Edward or Edgar, the renewal of which they claimed. What they meant was that the English people had never entirely

[1] *History*, IV, 68.
[2] *Atheneum* May 8, 1869.

relinquished their control over their own destinies, nor had ever so put themselves like sheep into the hands of any king as to suffer themselves to be tended and shorn at his arbitrary will. Not in statute or precedent, nor even in the Great Charter itself, but in the imperishable vitality of the nation, lay the fundamental laws of England." [1] Surely it is a little late for a scientific historian to be assuring us that the fundamental laws of England repose in the imperishable vitality of the nation and to be expecting us to get aid and comfort therefrom in a question of legal controversy. Moreover, if this be the true defense of Pym and Hampden, why censure the judges for delivering bad law? Similarly, Gardiner imitates Macaulay when he says regarding the breach with the King in 1642: "It has been our glory that our liberties were inherited from our ancestors of old, and that the men of the seventeenth century claimed no more than a confirmation of the rights which had been won at Runnymede and Lewes, and which were in some sort brought by our remote progenitors from beyond the sea." [2] Was it necessary to write ten volumes to prove that the Grand Remonstrance and the Root and Branch Petition claimed nothing which had not been "confirmed" in the thirteenth century and in fact brought by Hengist and Horsa from Germany in the fifth century? It will hardly be controverted that these phrases contain ideas now regarded as incorrect as the swashing sentences of Macaulay or the worst vagaries of Froude. That Gardiner gave here the view current when he wrote, we may readily admit; but it can hardly be denied that the invalidation of these views of early English constitutional history by the last generation of scholars has had a very serious effect upon the value of deductions Gardiner drew from them, and the ideas he consequently believed about precedent and law in the seventeenth century.

[1] *History*, VIII, 84.
[2] *History*, X, 182.

VIII

GARDINER'S HANDLING OF DETAIL

We find Gardiner's mature powers displayed in the first two volumes of the *History of England*, for he wrote them in 1882 in order to include the information contained in Spedding's *Life and Letters of Bacon*, and in the Hatfield manuscripts, which he had not been able to examine when the first edition appeared. One of the most significant developments of the reign of James was the bitter quarrel between the common law judges and the judges of the numerous courts which followed more or less closely the Roman civil law and its traditions. While properly the incident seemed to belong to the legal or ecclesiastical historian rather than to the writer of a general history of England, the ramifications of the dispute were such that Gardiner felt obliged to give it a good deal of space. The issue upon which the battle was joined and the subject discussed in all the debates between the rival judges was the legal status of the writ known as a prohibition, and the technicalities connected with its issue, its return, and the maintenance of its correctness or its revocation. The contention of the ecclesiastics and civil lawyers was that the common law judges were issuing writs which according to their own precedents and rules were technically bad. This the common law judges flatly denied and averred in rebuttal that the ecclesiastical and civil law jurisdictions were usurpations contrary to the laws of the realm.

Clearly, the one thing necessary for an understanding of this quarrel is a detailed knowledge of the technicalities involved in the issuing and annulling of prohibitions. This Gardiner did not possess. Indeed the confusion of the two elementary terms, prohibition and consultation, created in his mind a misapprehension which could not fail to color every sentence he wrote concerning the controversy and its participants. An examination of his account of Fuller's Case will make this

clear.[1] He states that Fuller procured for his clients "a consultation, a modified form of prohibition." The statement is an error, for, according to the evidence Gardiner cites, the King's Bench did not take any action at all beyond ordering a new hearing. But the main difficulty lies in such a definition of a "consultation," which was not a modified form of prohibition (a definition of it several times repeated by Gardiner) but the direct opposite.

A prohibition was a writ issued by a common law judge to a judge of some other court prohibiting him from hearing a case mentioned on the ground that it was not within his jurisdiction. This writ was then "returned" to the common law judge, at a hearing at which the court or suitor prohibited was allowed to defend its claims. If the common law judge concluded, on "consultation" with them, that they had been proceeding within their rights, he issued a writ called a consultation, annulling his prohibition and allowing the case to proceed in the court where it had been first impleaded. A consultation could not have been used to free Fuller's clients from the clutches of the High Commission, as Gardiner assumes, but would have deposited them in the Commissioners' hands for good and all to be dealt with at discretion. Moreover, the consultation was not, as Gardiner here and elsewhere infers, an original writ, but could issue only when a prohibition was already pending in that particular case. Fuller's clients were before the King's Bench on habeas corpus and not upon prohibition, and therefore a consultation would have been a legal absurdity in the case. Gardiner also seems to suppose that on the habeas corpus there was some half way procedure, that Ladd and Mansel might have been partially freed. By this failure to understand the terms involved, Gardiner has mixed the chronology of Fuller's Case badly. He confused the consultation issued to Fuller himself in September on the prohibition he procured in July for himself, with the action taken by the King's Bench in June on the habeas corpus he had procured in April for Ladd. The

[1] Gardiner, *History*, II, 36–40. I have already published in the *Reconstruction of the English Church*, II, 134–153, what seems to me the true narrative in Fuller's Case, and I refer the reader to the evidence there quoted and cited.

consequences of this confusion of terms may also be readily imagined when Gardiner came to deal with debates whose sole topic was the subtleties of procedure upon these very writs, and where a detailed knowledge of the writs themselves was assumed by the disputants as a matter of course.

A few examples may not be amiss. Gardiner states that Fuller was not proceeded against by the High Commission or imprisoned until November, 1607, but the chief manuscript account states explicitly that he was arraigned in July by the Commission; and Fuller himself declares in March, 1608, that he had been nine months in jail. He was released in April, and between July and March are the nine months. Gardiner had all these papers in his hands and also committed the evident blunder of supposing Fuller could spend nine months in jail between November, 1607, and April, 1608. The failure to understand the term, consultation, also leads Gardiner to accept as the consultation issued to Fuller, the document given by Coke in XII *Reports*, 44. The real consultation is quoted in full in what Gardiner terms the chief manuscript authority for the case and radically differs from Coke's paper, which, in truth, is probably nothing more than Coke's private notes of the reasons which led the judges to issue the consultation. The meaning of the consultation Gardiner also failed to grasp. The judges never maintained and could not well maintain a right "to prevent the High Commission from deciding the legality of its own acts." That power is necessarily inherent in the very existence of a court. All that the judges ever claimed was that slander of the High Commission, uttered in a common law court, was to be punished by the common law judge and not by the Commissioners.

So much was naturally the result of misapprehension; but, following these deductions, Gardiner handles certain evidence so loosely as needlessly to misrepresent the whole situation. His reading of the consultation led him to believe that the judges would be unfavorable to Fuller on his trial. He then quotes some phrases ostensibly from a letter of James: "'The judges,' wrote James, 'have done well for themselves as well as

for me. For I was resolved, if they had done otherwise and maintained their habeas corpus, to have committed them.'" The inference clearly is that James referred to the action of the judges which Gardiner has just described. But the letter in which the words were contained plainly states that the King referred to words uttered by the judges at Fuller's trial a month later, which were of entirely different import. Gardiner, as his own dates and footnotes show, quoted the King's comment on the trial before he mentioned the trial, and thus made James's comment refer to an entirely different series of events, which have been themselves given inaccurately. By all this work the judges are placed in the attitude of maintaining legal absurdities.

Further, the King did not write these words which Gardiner quotes from him in the text. The letter from which they were taken, as Gardiner's own footnote correctly states, was written by Sir Thomas Lake, the King's secretary, who was giving Salisbury the King's ejaculations as he read to him Salisbury's latest newsletter. The actual text of the letter puts the words Gardiner quotes in the third person; Gardiner has put them in the first person, modernized the spelling, omitted a word, and stated that the King wrote them. He also says that Salisbury was assured before the case came on that the judges would remand Fuller to prison. Quite the contrary was the case, as Salisbury's correspondence with the King, which Gardiner mentions in his footnotes, superabundantly proves. There was in fact great doubt up to the last moment of the trial whether the judges would not free Fuller. Gardiner says Fuller pleaded his own case; on the contrary, counsel pleaded for him; Gardiner says he met with little favor when in reality Salisbury admits with apprehension that he carried all before him on the first day of the trial, and only after strenuous efforts was Hobart, the Attorney General, able to stem the tide. Gardiner says that in January Fuller's friends published his argument for Ladd and Mansel; so the tract states in its title; but Fuller himself maintained in a letter Gardiner had in his hands that it was not the speech he delivered but one he intended to use at a later hearing, and the truth of his contention is proved by the fact that the

tract contains none of the phrases for which the High Commission indicted him.

Moreover, the transaction must have happened in December and not in January, as Gardiner says, because Chamberlain wrote on January 5 of the publication of several books by Fuller's friends, which could not therefore have appeared (as Gardiner says) *after* the release of Fuller which Chamberlain chronicles in a letter three days *later*. Hobart's undated but holograph letter mentions twelve books, and declares that he does not believe Fuller wrote "any of them." On the other hand, Whyte's letter of January on which Gardiner depended mentions but one book and that "on the discipline of the Church." There were two examinations of Fuller, not one, and his friends issued twelve books, not one tract. These are all matters of minor detail, but it is on matters of detail that Gardiner has been assumed to be impeccable. Moreover, it is here evident that he has failed to use as carefully as he should have the evidence he had in his hands. For mistakes no more serious than these Froude and Macaulay have been long declared unreliable.

Another instance of insufficient care in using the material he had appears in his statement on the next page, that in February, 1609, Coke and the Churchmen again argued the question of prohibitions before the King.[1] He bases this opinion on an undated letter of Bosworth's in the Hatfield manuscripts; but he had in his hands the holograph notes of Sir Julius Caesar on all these debates, which prove conclusively that the debate Boswell describes took place in November, 1608, and that the debates in February, 1609, were concerned with the jurisdiction of the Council of the North and of the Council in the Marches of Wales.[2] Gardiner next says that the debate was postponed, and then: "At last, on July 6, the parties were once more

[1] *History*, II, 41. On this same page, Gardiner quotes Bancroft as saying that juries were "dependents of the gentry," *i. e.*, their retainers; whereas Bancroft really said that because of the gentry's power the jurors must often obey them or be ruined.

[2] See the *English Historical Review*, Oct. 1903. Such of these debates as concern the Church are fully described in Usher's *Reconstruction of the English Church*, II, 206–246.

summoned before the King." Evidently the inference is that no meeting took place till July, but the papers of Caesar and the paper in Coke's *Reports* to which Gardiner refers (and which should be XIII, 37 and not XIII, 46) give long details of debates in May, and indeed Coke's paper refers to nothing else.

Gardiner's statement of the issue itself is inexact, if not legally wrong. The issues *de modo decimandi* and of the treble value are certainly "questions connected with the payment of tithe" (should this not be tithes?) but the whole question of the payment of tithes was by no means under discussion. The common law judges were far from claiming complete jurisdiction over tithes, and readily admitted that only the ecclesiastical judges could deal with great sections of the subject. If Gardiner fully understood what they were debating, he has certainly stated the points so vaguely as to convey a wrong impression. In giving the result of the conferences he also blunders in stating too much. James did not order the judges to issue no more prohibitions; he commanded them to issue no more of the sort of prohibitions which the ecclesiastical judges declared were technically bad—prohibitions issued without any proof at all offered the common law judge that his jurisdiction was infringed. The brevity of Gardiner's account would in no way entail such inaccurate statements as these, for the whole controversy might have been clearly described in correct legal terms in even less space than he allotted to it.

His comment on one of the most serious legal controversies in English history shows the influence on his mind, and its result in the treatment of topics, of the assumption that an English national opinion of the modern type existed in the seventeenth century. James, he says, wished the two sets of lawyers to live in future in peace. "It was not very likely that this wish would be gratified. As the ecclesiastical courts were then constituted, they had little hold on the national feeling. In appealing to the King for support, the Bishops were widening the chasm between him and his subjects." This comment overlooks the serious nature of the legal controversy and ignores its significance to English litigants of that day and since. In reality, Coke was

winning one of the greatest legal victories in English institutional history, and winning it because he was using the precedents of the law better than did his opponents. He was meeting the ecclesiastical lawyers on legal issues, fighting them with legal writs and legal arguments. All this Gardiner glosses over by mentioning the assumed unpopularity of the ecclesiastical courts for religious and political reasons, and leaves us to infer that the controversy continued, not because there was a momentous legal issue under consideration, but because the bishops in appealing to the King as arbiter weakened their position with the nation. The controversy went on, in truth, because it had not been settled, not because "national feeling" had been invoked on either side. Indeed, Coke would have been the last man in England to admit that "the nation" had anything to say about the issue one way or the other. It was his duty to tell the people what the law was, not theirs to inform him what it ought to be. This persistent attempt to drag every issue into the popular forum and decide its significance according to popular feeling, mars this part of the story much more than it does the political narrative.

This same failure to understand legal terms led Gardiner into a grave error regarding the *Articuli Cleri*, the series of complaints brought forward in 1605 by the Archbishop against the common law judges. In article xiv Gardiner found a statement that no prohibition upon surmise should be granted except by the Chancery.[1] This he assumed to mean that Bancroft wished to deprive the common law courts of the right to issue prohibitions at all, to place that power in the hands of the Chancellor, and so to free himself from his enemies by the political control of the latter official by the King. "Whilst Bancroft would have placed the power of granting prohibitions in the hands of the Court of Chancery, the judges, who were well aware that that court was far more subject to political influences than their own, at once declared that, though they were ready to submit to an Act of Parliament, they declined to surrender their immemorial

[1] Gardiner, *History*, II, 36. The subject is discussed in Usher's *Reconstruction of the English Church*, II, 74–88.

rights to any lesser authority. It is this appeal to Parliament which raises the dispute from a mere quarrel about jurisdiction to the dignity of a constitutional event. Whilst the clergy were content to rely upon the Sovereign, the interpreters of the law entered boldly into alliance with the nation." All these generalizations about the appeal of the judges to Parliament, their realization of the Chancellor's amenability to political influence and the like, rest upon the interpretation of this single article.

Here, too, is a notable instance where Gardiner alleges more than his evidence proves. There is nothing quoted to show where Gardiner learned that the judges were "well aware" the Chancellor could be more easily influenced by the King than they could; the judges say nothing about yielding their immemorial authority to any one and do not employ the words or even hint at the possibility; the bare statement, that an act of Parliament would be necessary before a certain procedure would be legal, hardly furnishes proof that the judges intended to refer the decision of the legal controversy to the House of Commons. Nor does it show that the judges regarded the House of Commons as the representative of the united nation in our modern sense. The chain of reasoning is pure assumption at best. Moreover, the judges were quite as amenable to pressure from the King as was the Chancellor, for James appointed them both at pleasure, and could quite as easily threaten the one as the other with removal. Indeed, it is the use of this very power (which he here ignores) which caused Gardiner to term the disgrace of Coke a constitutional event of the first significance. Possibly he thought that James revived the power in 1616 as Charles I revived ship money. Possibly he brought into play here the difference between the common law judges and the Chancellor instituted by the Bill of Rights three generations later. At any rate, it is in 1605 a distinction without a difference.

But even the slight basis Gardiner had on which to erect this elaborate structure was wrong, for he misunderstood the legal phrase "prohibition upon surmise." Prohibitions were of two kinds: properly they issued only on "suggestion," that is to

say, on demonstration to the common law judge that the usurping court was actually trying a temporal case. This was usually proved by submitting copies of the technical papers (libel) already filed in that court. But during the years preceding 1605, the judges had issued frequently what were known as "prohibitions upon surmise," where from a bare oral statement by some lawyer that a temporal case was impleaded at ecclesiastical law, the common law judge "surmised" that his jurisdiction was invaded. The ease of obtaining this variety of prohibition made them extremely popular with the attorneys and an exceedingly useful method of legal obstruction, for, when the man prohibited proved on the return of the prohibition that there was nothing temporal in his case and was awarded a consultation, he had been just as much annoyed and put to almost as much expense as if he had *bona fide* infringed the common law jurisdiction. Such practices were clearly an abuse of a proper legal authority. Bancroft's claim was, therefore, that, if prohibitions without proof were to be issued at all, which he deprecated, they should be issued by the Chancery which had no profit to be made out of the transaction. But does the refusal of the judges to surrender this legal iniquity, except when compelled by act of Parliament, necessarily prove their clear understanding that the Chancery was under the influence of the Crown, and does it clearly signify that "whilst the clergy were content to rely upon the sovereign, the interpreters of the law entered boldly into alliance with the nation?" Does this squabble about the maintenance of a legal injustice raise the dispute over the *Articuli Cleri* to "the dignity of a constitutional event?" That the judges relied on the people and the Bishops on the King may well have been true, but it cannot be demonstrated by such evidence as this.

In reality, the issue involved here was nothing less than the outcropping of the old controversy between Chancery and Parliament, whose functions had become distinct a century or so earlier, but whose exact jurisdiction was still dubious. The newer practice was to issue all formal writs in new cases from the Chancery and to this Bancroft appealed. Coke, on the

other hand, clung to the older precedent, which regarded Parliament as fundamentally a new court for the decision of unforeseen cases and the issue of new writs. Hence, said he, this new writ, if issued at all, must come from Parliament. The whole question was in fact judicial, and had no relation whatever to constitutional or political opinions in our modern sense of the words.[1]

[1] McIlwain, *High Court of Parliament*, 208 ff.

IX

THE HISTORICAL CONCEPTION OF THE PURITAN REVOLUTION FROM CLARENDON TO GARDINER

When we attempt to investigate the relation of Gardiner to the historians who preceded him in Stuart annals, with a view to ascertaining how far Gardiner's story is new, we must again tread warily. Two things at least are to be expected. The main facts will be the same. That Charles quarreled with his Parliaments; that he exacted ship money; that the Scots revolted against the new Prayer Book; that the Long Parliament met; that Strafford was beheaded; that the Civil War broke out; such facts have always been sufficiently well known. To deny Gardiner originality because he has not revolutionized the fundamental outlines of the narrative, would be unjust. On the other hand, it will be quite as natural to find numerous small details elucidated or told for the first time. Few men have ever honestly tried to study the past without turning up a new reading of this or a refutation of that. That Gardiner's work should be wholly different from anything hitherto written, was not to be expected: he could not make the events. That his work should be somewhat different from anything hitherto written, was quite to be expected: he could hardly write eighteen volumes without adding much to our previous information.

The claims made for him, by his admirers, however, reach almost to the revolutionizing of the whole character of the epoch. York Powell declared that he found the Stuart period legend and left it history. The *Quarterly Review* pronounced his work the most exact and impartial account we have of any period in English history, and Mr. Rhodes felt that he had made this period better known to us than any other in the history of the world. Even the most conservative of Gardiner's critics have not fallen far short of this same enthusiasm. Some, indeed, have declared without much hesitation that the earlier

volumes made few material additions to our knowledge; but no one has yet ventured on such a statement about the last ten volumes. In endeavoring to find wherein lay Gardiner's superiority over his predecessors, we shall be looking for changes in the broad interpretation of the story, for different ideas of cause and effect, for juster, fairer, appraisals of character, for old happenings given new significance, for careful investigations of the many points left untouched by his predecessors. And surely if he found the story legend and left it history, there must be some very important and fundamental differences of interpretation and viewpoint. If he simply corrected details, added details, and subtracted details, without materially changing the narrative itself, or the general conception of its meaning, or the previous conception of the main characters, can his book be described as new or extraordinary? Has a collection of minute changes, however numerous, a right to be called epoch-making history? To say that the period had been too much studied and is too well known to make such material alterations possible is merely to state that no epoch-making history can be written; that the legends were already dispelled and the whole truth known. This is the denial of the fundamental premise of Gardiner's admirers as well as the contradiction of their most generally accepted conclusion.

Leaving Gardiner for the moment out of consideration, let us apply to his chief English predecessors—Clarendon, Hume, Hallam, Macaulay, Forster, Carlyle,[1] the ordinary tests of textual criticism so regularly employed by literary students who are tracing the influence of one writer upon another and are seeking to define the precise points he added to the common stock of knowledge. The result of this inquiry is the some-

[1] The following editions have been used: Clarendon, *History of the Rebellion* (Oxford 1827. American reprint Boston, 1827); Hume, *History of England*, Philadelphia, 1868; Hallam, *The Constitutional History of England*, second edition, 1828; Macaulay, *The Constitutional History of England*, second edition, Philadelphia, 1871; Forster, *Strafford*, in *Eminent British Statesmen*, II, London, 1836, *The Arrest of the Five Members*, London, 1860, *The Grand Remonstrance*, London, 1864, *Life of Eliot*, London, 1864; Carlyle, *Life and Letters of Oliver Cromwell*, New York, 1845; Guizot, *History of the English Revolution of 1640* (Hazlitt's translation) London, 1846; Masson, *Life and Times of Milton*, London, 1858; Ranke, *History of England*, Oxford, 1875.

what astonishing fact that from the publication of the Grand Remonstrance in 1641 to the year 1863 the story of English history between 1603 and 1641 is in all essentials the same whether told by Whig or Tory, whether written in exile in Holland while Charles II was still "on his travels" or published in the *Edinburgh Review* by a radical parliamentary reformer. Except for very minor changes the narrative is absolutely the same; the interpretation of events, the reading of precedent, the definition of the causes of the Revolution of 1640, the description of its growth during Charles's personal rule, are the same not only in essentials but even to the arrangement of facts and the repetition by one writer after another of the same reflections at the same point.

They make, one and all, the same fundamental and sweeping assumptions for which they offer no proof and for which they assume that none is necessary. From Hume to Macaulay and Forster, every writer starts as a matter of course with the assumption that an "English" nation exists, intelligent, alert, trained in political thinking by the parliamentary struggles of centuries, and believing that its liberties can be secured only through parliamentary legislation.[1] The stage setting is the same for every act: whether James is interviewing witches or negotiating the "Spanish Marriage" with Gondomar, whether Charles is listening to a masque performed by the Inns of Court or defending Buckingham, the importance of the event is gaged solely by its effect upon this alert, intelligent English nation, and its place in the history of England is determined chiefly by the extent to which it irritated the people or undermined their confidence in the King. The second assumption which no one seemed to think needed demonstration was the universality of the national displeasure.[2] Indeed the only points

[1] *The Idea of an English Nation*, Hume IV, 468, 566; V, 88, 89, 114, etc.; Hallam, I, 424, 504, 505, 509, etc.; Macaulay, *History*, I, 13, 24, 28, etc.; Forster, *Grand Remonstrance*, 42; Forster, *Eliot*, I, 398–400; II, 374, 464; Carlyle, I, 119, 121; Masson, I, 105, II, 51; Ranke has consistently refrained from using language that connotes this idea, but see I, 483, 494, 527.

[2] Clarendon, I, 50, 147; Hume, V, 129, 136, 137, 543; Hallam, II, 32, 33, 113, 114; Macaulay, *Essays*, I, 217, 218; Macaulay, *History*, I, 65, 66, 70; Forster, *Eliot*, II, 374; Guizot, 51, 55, 58, 65, 67, etc.; Carlyle, I, 119, 121.

which they tried to explain were how the nation came so to hate the King; when did its hatred become dangerous to his throne; who caused it. The illegality of James's and Charles's acts no one seriously doubted or thought worth more than a cursory investigation.[1] Some were able to conceive that Charles may have had some justification for his curious ideas of English law and history, but that he was wrong in his contentions no one doubted.[2] When they came to the "illegal events" by which Charles roused this great wrath in a peaceable and contented nation, there was again unanimity.[3] We read in every book the same things about the Forest Courts, the High Commission, and the Star Chamber. Their illegality is proved by the same arguments, their tyranny and cruelty by the same half dozen instances. Sherfield, Leighton, Prynne, Burton, and Bastwick are cited as the shocking examples which roused and terrified England. Hampden and ship money succeed them as the crowning demonstration of Charles's determination to subvert the fundamental laws of the realm, and as the final proof of the union of all England in hatred and distrust, for what touches the pocket touches all.

Then, paradoxically, all the historians agreed that England was extremely peaceful, and might have submitted still for a decade or two to the Stuart tyranny, had not the Scotch revolt laid the match to the train.[4] On the meeting of the Long Parliament, the wrath and determination of a united nation blazed forth and demanded justice on the perpetrators of the recent tyranny, and the abolition or reform of those instruments and expedients which had characterized it. After a year and more of united action and victory over the King, the nation divided into two camps, and civil war resulted. This was a great mistake: one tyrant was exchanged for another, King Charles for

[1] Most writers treated this point as too well demonstrated already to need restatement. Macaulay, *Essays*, I, 219, 228, *History*, I, 70. See general tone of Forster's *Grand Remonstrance*, or his *Life of Eliot*. Hallam, I, 572.

[2] Hume, IV, 469, V, 80, 545, (cf., however, V, 92); Clarendon, I, 135, 136, 142.

[3] Clarendon, I, 134; Hume, V, 72; Hallam, Chapter VIII; Macaulay, *History*, I, 64; in particular Forster's *Grand Remonstrance*; Guizot, 42.

[4] Clarendon, I, 143 (a striking passage on which everything since written has been based); Hume, V, 93; Hallam, II, p. 111; Masson, II, 45; Macaulay, *History*, I, 71, 72.

the army, and out of England's disgust at the excesses of parliamentary and military rule grew the Restoration.

The differences between the numerous accounts are many but rarely significant or convincing. Forster spends several hundred pages in criticising Clarendon's statement that the attempted arrest [1] of the Five Members was a rash act soon repented of. Hume repeatedly declared that early precedents to some extent extenuated the evil of Charles's conduct; Hallam crossed swords with him and argued at great length that they did not.[2] That Charles's conduct was illegal neither writer thought it necessary to *prove*. Hallam also fell foul of Hume for supposing that Bristol and Charles could have both been good and honest men.[3] All the historians discussed at great length whether or not James should be blamed for not answering at once Frederick's request for advice about the acceptance of the proffered crown of Bohemia. But the favorite topic of speculation, discussion, and difference has been why did Charles so irritate his people as to produce the Revolution. That he and his advisers had some good traits of character and were sincere with themselves only a few have doubted. In fact, if a little legal phraseology is allowable, the main question on which the historians have differed has been whether or not Charles was guilty of more than contributory negligence.[4]

The moment, however, the smoke of the battles of the Civil War rises in the distance, a more considerable divergence of opinion appears. The Tories, following Clarendon, declare that Pym and his party were not satisfied with redressing the balance of the constitution and with regaining the former liberties of

[1] It is curious to note the persistence with which historians have written about the "arrest" of the Five Members, while glorying in the fact that they were not arrested.

[2] Hallam, II, 33, 38.

[3] Hallam, I, 519.

[4] *Charles was blind to the facts:* Hume, V, 120; Macaulay, *Essays*, I, 240; Forster's *Five Members*, 21, 360; this point was developed at greatest length in the *Life of Eliot*, see especially I, 344, 398, 400, II, 374; Ranke, II, 328–329; Guizot, 45, 62. *Charles's insincerity and duplicity:* Hallam, I, 535; II, 16; Macaulay, *History*, I, 64, 65, 83; Forster, *Eliot*, II, 270 *et passim; Charles's excellent and lovable qualities:* Hume, V, 64, 379; Hallam, I, 511; Macaulay, *History*, I, 65, 99; Masson, I, 668; Ranke, II, 329.

Englishmen, but pushed on to the subversion of state and church, along a path as illegal and tyrannical as Charles's own earlier policy. Needlessly they broke with a king who was ready to form and maintain a constitutional government and abide by the results of the Revolution of 1640. Here the Whigs, following Rushworth, break in with hot denial. The King, they cry, was not dealing fairly with his new advisers and had no sincere intention of abandoning his old policy, as the attempt to arrest the Five Members fully proved. That was a confirmation of the belief that his previous design was to subvert the constitution and an earnest that such was still his intention. Further guarantees were necessary, for it would have been folly to leave the army in Charles's hands after such a violation of privilege. The blame rests not on Pym but on Charles, and the rest of the whole difficulty lay in the incurable insincerity and duplicity of his nature. With him there could be neither compromise nor settlement because his word could not be trusted. His character caused the Revolution of 1640, the Civil War, and his own execution.

These divergencies as to motive and blameworthiness have not, however, been the only characteristic differences distinguishing the historians one from the other. There have been on the whole two distinct schools differentiated rather by their style than by their opinions. First came a relatively calm and professedly impartial treatment guided in the main by Hume and Hallam. Following it came a violently "patriotic" period dominated by Macaulay and Forster, and in which the earlier ideas were set forth with superlatives and colorful adjectives and with an exuberant belief in the splendor of the story. Indeed, so completely did the writers of this later period succeed in dominating history and literature that the reading public, as was natural, and the historians, which was strange, forgot that the period had ever been treated in any other vein.

Witness the different pictures of Laud. Hume was critical but sympathetic. "Sincere he undoubtedly was, and, however misguided, actuated by pious motives in all his pursuits; and it is to be regretted that a man of such spirit, who conducted

his enterprises with so much warmth and industry, had not entertained more enlarged views, and embraced principles more favorable to the general happiness of society."[1] Hallam is critical, but unsympathetic. Laud was "in a far more eminent degree than any other person, the evil genius" of Charles; his capacity was mediocre; his diary "contemptible." "Though not literally destitute of religion," his motives were so soiled with worldliness and "the impure alloy of temporal pride," that he became "an intolerant persecutor" "not from bigotry" but from "systematic policy." He was "choleric, vindictive, harsh and even cruel to a great degree."[2] In his famous *Essay on Hallam's Constitutional History*, Macaulay touched the summit of aspersion. He had for Laud, he said, "a more unmitigated contempt than for any other character in our history," and he compared the fondness of the Churchmen for him "to that perversity of affection which sometimes leads a mother to select the monster or the idiot of the family as the object of her especial favor." Laud was without a sense of duty towards God or man; "the vices of his heart" were exceeded by "the imbecility of his intellect;" and he was summed up in one final phrase as a "ridiculous old bigot."[3] Something of this same exaggeration marked Forster's treatment, but even Macaulay renounced his own handiwork and gave in the *History* published twenty years later a much subdued portrait of the primate.[4]

From history as written by Macaulay and Forster, Gardiner recoiled, and returned to the methods and tone of Hume and Hallam. But the general view of the period portrayed by his scattered comments is not materially different from what had already been written.[5] He took for granted what every one

[1] Hume, V, 297; see also 66, 546.

[2] Hallam, II, 53, 54.

[3] Macaulay, *Essays*, I, 246, 247.

[4] *History*, I, 68. See also Clarendon, I, 164, 165, 169.

[5] The reader will find sufficient evidence fully to demonstrate these points in the quotations already made from Gardiner. This chapter was placed here chiefly because it seemed impossible to make this comparison until the reader had been somewhat refreshed as to Gardiner's views.

else had assumed—"the English nation;" the universality of the nation's displeasure with the King; the illegality of Charles's acts. As had his predecessors, he placed the blame squarely on Charles, berated him for his blindness in not seeing the seething discontent around him, and for his insincerity and duplicity; and declared with Hallam, Macaulay, and Forster, that the chief difficulty was the lack of confidence of the nation in the King. He, too, is surprised at the prosperity of the country during the "tyranny;" he, too, cannot see where relief would have come from but for the Scotch revolt.[1] If he accepted unquestioningly much that his predecessors had taken for granted, where his predecessors had differed he tried to be impartial by accepting the Puritan verdict of Laud, and the Royalist view of Strafford. His "Charles" is first one and then the other, first Hume, then Hallam, then Macaulay, then Forster, until the bewildered reader wonders whether Charles was one man or a multiple personality. Gardiner sided with the Whigs in his view of the causes of the Revolution of 1640, and believed Pym justified in declaring that Strafford and Charles were trying to subvert the constitution. He attempted to take the Tory view of the outbreak of the Civil War and to show that while the constitutional reorganization had not been as yet successful, the religious cleft was the fundamental cause of the formation of the parties.

Laud is at times portrayed in terms that almost equal the extravagances of Macaulay and Forster. He was "one of the worst rulers who could at this crisis have been imposed upon the English Church."[2] "His thorough belief in the unbounded efficacy of external forms and institutions, combined with his complete ignorance of human nature, would be sufficient to goad to madness any nation which might be subjected to his control."[3] "The loose follies" of Charles's Court repelled all

[1] *History*, VIII, 302, 303.

[2] *History*, VII, 301.

[3] *History*, II, 126. See also the following references on Strafford: Hume, V, 66, 154; Hallam, II, 57, 69, 73–75; Macaulay, *Essays*, I, 220, *History*, I, 67–68; Forster, "Strafford," *Eminent British Statesmen*, II, 228–230, 404, 411; Masson, I, 666, 669, 687.

the "moral earnestness of the nation;" Finch's view of the "constitution" was "portentous;" Strafford and Pym were "enemies of liberty" and "traitors to the constitution." Indeed, there is in Gardiner a little of everything that had gone before. Several of his characteristic phrases, often repeated—"the old parliamentary constitution," "fundamental liberties," and the like—occur frequently in the works of his predecessors.[1]

One of the peculiar facts about the strong influence exercised on Gardiner by his forerunners is—that in some instances he repeats a comment although his research has disproved its validity. Gardiner demonstrated that Frederick decided to accept the crown of Bohemia without waiting to hear from James, and thus completely disposed of the whole incident for which such wide significance had been claimed, but for some unaccountable reason, he repeated the familiar censure of James.[2] There is another case. Every account of Charles's reign since

[1] *Similarities in wording: "the old Parliamentary constitution,"* Forster, *Grand Remonstrance*, 91; Macaulay, *Essays*, I, 218; *History*, I, 33, 109; Ranke, II, 66; Gardiner, *History*, VIII, 275. *Strafford a traitor to the constitution*, Hallam, II, 74; Macaulay, *Essays*, I, 219; Gardiner, X, 129. *Strafford, the enemy of liberties*, Hallam, II, 57; with Gardiner, *Civil War*, II, 100. *The enemy of Parliaments*, Hallam, II, 73, and Gardiner, *History*, IX, 370. *"Outrageous" attacks on the constitution*, Hallam, I, 320; Macaulay, *History*, I, 65. *The "old Constitution" could not be maintained*, Macaulay, *Essays*, I, 240; *History*, I, 34. *Similarity of ideas*, Hallam, I, 433, and Gardiner, *History*, VIII, 280; Macaulay, *History*, I, 26, and Gardiner, *History*, II, 9 (importance of laying down general rules not seen in Middle Ages); Macaulay, *History*, I, 25, 26, and Gardiner, IX, 78 (constitutional significance of the difficulty of communication); Hume, IV, 468, with Gardiner, *History*, VIII, 85 (real constitution of England in the spirit of the nation). Too much significance must not be attached to such instances as these, but certainly it is difficult to deny that Gardiner used a good many ideas and words long made familiar by Hume, Hallam, and Macaulay. Probably chance and not an intentional adoption of his predecessor's ideas was in the majority of cases the cause of such language. Probably a similar list could be prepared on any period of English history. But the same words presuppose the same ideas; and the same ideas about many points of general importance presuppose the same premises of interpretation. Here the words of Ranke are suggestive. After commenting on the worthlessness of the memoir writers of the reign of James I, he says, "The elder Disraeli is quite right in rejecting them; but his own conception is very unsatisfactory. Gardiner (1863) avoids unauthenticated statements, but the views of James's character which have grown up and established themselves owing to the common-place repetition of such statements, control his representation of it." *History*, I, 470, note.

[2] *Supra*, p. 15.

the Grand Remonstrance was published listed the draining of the Bedford Level among the sins for which the King had to answer, and Forster in his *Oliver Cromwell*[1] had elaborated the incident to show that Cromwell had skilfully utilized it to foment very great discontent with Charles. Gardiner's investigation showed that Cromwell was not connected with it at all; that Charles's part was much liked by the inhabitants of the district; and that his interference resulted in giving them their way; that any discontent was fomented he showed was unlikely. But although he had robbed the incident of its only significance or reason for being told at all in a general history of England, he still gave it several pages in the chapter, headed "Constitutional Opposition," devoted to Charles's crimes, and drew at the end the old conclusion that it was all Charles's fault, and that the discontent with him was growing every day because of such actions as this. A short footnote would have disposed of the whole matter. Naturally from two such cases no very sweeping conclusion can be safely drawn: the wonder is that there should be two.

Gardiner's only lengthy statement about precedent referred to the confusion of precedent in earlier centuries. The same idea is to be found in every writer on the subject and most of their statements are clearer, more logical, and more consistent than Gardiner's. "The turbulent government of England," says Hume,[2] "ever fluctuating between privilege and prerogative, would afford a variety of precedents, which might be pleaded on both sides." Hallam, with admirable candor, criticises the historian's attitude towards this precedent.[3] "It is because one set of writers have looked merely to the letter of our statutes or other authorities, while another have been almost exclusively struck by the instances of arbitrary government they found on record, that such incompatible systems have

[1] *British Statesmen*, VI, 59–61. Gardiner, *History*, VIII, 299. "The story of the first attempt to effect the drainage of the great fens is worthy of notice by the historian as well as by the engineer. It brings out into clear relief both the merits and the defects of Charles's character."

[2] *History*, IV, 469.

[3] *History*, I, 312.

been laid down with equal positiveness on the character of that consitution." Even Macaulay has stated the same point with impartiality. "With such feelings, both parties looked into the chronicles of the middle ages. Both found readily what they sought; and both obstinately refused to see anything but what they sought. The champions of the Stuarts could easily point out instances of oppression exercised on the subject. The defenders of the Roundheads could as easily produce instances of determined and successful resistance to the Crown." [1] From such premises we should expect to find all three declaring that there was right on both sides and that neither was more illegal and wrong in its contentions than was the other. We should expect to hear the verdict that on both sides might was intended to make right. Yet, while all declare the precedents to be more than dubious, all declare that they convict the King of tyranny and illegal rule. This inconsistency which we have already marked in Gardiner was in fact only a legacy from his predecessors.

On the other hand, as in Gardiner, so we find in his predecessors traces of an idea that the parliamentary party was also doing illegal things, and was trying to subvert the old constitution quite as much as the King was. We also find in them all frequent statements that both James and Charles were using powers which all kings time out of mind had exercised.[2] If ship money and knighthood fines were illegal and tyrannical because obsolete, what was to be said of impeachment and the "privileges" the Houses had not "claimed" since the Hundred Years' War? In fact, nearly all of the numerous inconsistencies Gardiner exhibits in his treatment of precedent are simply repetitions of what Hume, Hallam, and Macaulay had clearly perpetrated.

We found Gardiner insisting much on "the representative monarchy" of Henry VIII and Elizabeth, and assuming that

[1] *History*, I, 21.

[2] The reader should compare the quotations already given from Gardiner with the following: Hume, IV, 417, 434, 467, 496, 498–500, 565, 566, 571, V, 79–80, 540, 543; Hallam, I, 429, 433, 434, 523, 525, II, 10, 12, 32; Macaulay, *History*, I, 20; Forster, *Grand Remonstrance*, 1–109.

the unwritten law of the constitution forced the King to act as his people wished. The success of the Tudors he attributes solely to their adherence to this ideal, and more than once he explains the failure of the Stuarts by their neglect of it. Very similar ideas can be found in Hume and Hallam, but Gardiner found them fully developed by Macaulay and Forster.[1] Edward III, says Forster, "aggrandised his own glory as the summit of the nation's greater glory." Henry IV "established in effect the principle of ministerial responsibility." The Tudors "unceasingly watched and conciliated the temper of the people." In fact, the long introductory section of his *Grand Remonstrance* is little more than the consistent attempt to write the constitutional history of England around this notion. Gardiner's idea of the King as the center of the national life had already been developed by Hume in a striking passage.[2]

In discussing Gardiner's account of the causes of the Revolution of 1640, its illogical and fragmentary nature was indicated. In reality that conception comes nearer than any other in the history of the period to representing a perfect agreement of the historians. If the reader will turn to the Grand Remonstrance, sections 18 to 60,[3] he will find the headings of everything written from that day to this on the first fifteen years of the reign of Charles I. Like all other writers, Gardiner accepted this framework as the skeleton of volumes V to IX, and he described the causes of the Revolution largely by detailing the happenings mentioned in the Remonstrance and the characters of the men who were responsible for them, chiefly from Rushworth but partly from manuscript. The long passage about Milton, Wither, Hales, Williams, and Chillingsworth is, however, due to the influence of Clarendon, Hallam, and of Masson's *Life of Milton*. Indeed Hallam's eighth chapter contains in brief nearly everything Gardiner says at length on the causes of the Revolution. This explains why Gardiner felt that the

[1] Macaulay, *History*, I, 31, 32; Forster, *Grand Remonstrance*, 42, 49, 67, 71, 80–84, etc.

[2] Hume, *History*, IV, 498. The contradiction in Gardiner as to the strength of the Puritan party (see *supra*, pp. 39–40) is to be found in Hume, V, 127, with V, 189.

[3] Conveniently printed, Gardiner, *Constitutional Documents*, 135–139.

growth of London, the salt mines, the monopoly of coal, and the Bedford Level were causes of the Revolution—the Grand Remonstrance said they were; all previous historians had so considered them; why should he doubt? With Forster, Gardiner held that the lack of confidence between King and people was the main cause of the revolt, and that the blindness of Charles and his advisers to the facts of the situation was in the main responsible for that lack of confidence. With Hume, he held that most of these "tyrannical" acts were for the good of England, that they did help its prosperity, and that they occasioned little, if any, actual suffering.[1] Surely Gardiner's version of this considerable and important section of the story is not by any means new or revolutionary.

Nor was his calm and impartial treatment of it a new thing. The critics quoted with approbation, and apparent surprise at his acumen, Gardiner's statement that the period had always been treated from an exclusively Tory or Whig point of view, and his determination to be fair, and, if possible, impartial. But all of them seemed ignorant of the fact that every writer who had even approached the subject, from Rushworth and Clarendon to Gardiner himself, had pronounced that censure on his predecessors and had in the same breath declared his own impartiality.[2] In fact, Gardiner's judicial attitude was

[1] Hume, V, 93, 553; Gardiner, VIII, 269, 270, 302, and elsewhere. See also how little Gardiner has added to the facts about taxation given by Hume, IV, 506–509.

[2] Clarendon, I, 52; Hume, V, 545, 554; Hallam, I, 93, 386, II, 84; Macaulay, *Essays*, I, 201, 204 (on Hallam's impartiality); Forster, *Eminent British Statesmen*, II, 229; Carlyle, *Cromwell*, I, 13–19; Macaulay, *History*, I, 19–21; Gardiner, *History of England under Buckingham and Charles I*, preface, vi. The lesser writers, the Smollets and MacDiarmids, have aped their betters. This charge of Whig or Tory prejudice against one's predecessors is the oldest commonplace in connection with the subject. Witness Rushworth: "I have chosen to be a Collector of Matters of Fact rather than to write in the usual form of Historians, to pretend to have seen into the dark Closets of Statesmen and Church-mens Minds. . . . In such an attempt I might have bin a false Guide to my Country-Men against my will, and had assumed myself to be wiser than they. But whilst I entertain the Reader only with a true and simple Narrative of what was done, and by whom, and when, every Man is left to his native freedom to judg of Men and Things, to find out the Causes by the Effects." *Collections*, II, i. Is this not an excellent statement of Gardiner's method?

no newer than his protestations and was not maintained more successfully than several writers then alive, to say nothing of Hume who had written a century earlier. Nearly every one had succeeded in seeing some good in Charles and Laud; nearly every one had admitted that the parliamentary champions were not blameless. Such *a priori* impartiality was less needed than a real impartiality of attitude and judgment, and it cannot be denied by the candid and well-informed student that several of Gardiner's predecessors give us conspicuous examples of those very principles which it has been so often claimed he applied to this period for the first time. In our anxiety to exalt Gardiner, let us not commit grave injustice and belie the very impartiality we are lauding.

Whatever we may think of Hume's opinions, and however numerous may be his errors in detail, certainly an admirable spirit of fairness and justice is spread over every page. It is hard to see how the balance could be held more evenly. "That these principles of government were derived from the uniform tenor of the English laws, it would be rash to affirm. The fluctuating nature of the conditions, the impatient humor of the people, and the variety of events, had, no doubt, in different ages, produced exceptions and contradictions. These observations alone may be established on both sides, that the appearances were sufficiently strong in favor of the King to apologize for his following such maxims, and that public liberty must be so precarious under this exorbitant prerogative, as to render an opposition not only excusable, but laudable in the people." [1] With the one hand Hume attempts justice to Pym and Hampden. "Then was celebrated the sagacity of Pym, more fitted for use than for ornament; matured, not chilled, by his advanced age and long experience; then was displayed the mighty ambition of Hampden taught disguise, not moderation, from former constraint; supported by courage, conducted by prudence, embellished by modesty." [2] With the other he attempts justice to Charles. "The character of this prince, as that of most

[1] Hume, V, 80. See also 545.
[2] Hume, V, 136.

men, if not of all men, was mixed; . . . To consider him in the most favorable light . . . all these virtues in him maintained their proper bounds and merited unreserved praise. To speak the most harshly of him, we may affirm that many of his good qualities were attended with some latent frailty, which, though seemingly inconsiderable, was able, when seconded by the extreme malevolence of his fortune, to disappoint them of all their influence. He deserves the epithet of a good, rather than of a great man. Unhappily his fate threw him into a period when the precedents of many former reigns savored strongly of arbitrary power, and the genius of the people ran violently towards liberty."[1]

On the vexed question of precedent, he is calm and fair and his statements careful. "Upon the whole, we must conceive that monarchy, on the accession of the House of Stuart, was possessed of a very extensive authority; an authority in the judgment of all, not exactly limited; in the judgment of some, not limitable."[2] "The kings were, perhaps imprudently, but, as they imagined, from necessity, tempted to assume powers which had scarcely ever been exercised, or had been exercised in a different manner by the Crown."[3] "Though frugal and regular in his expense, he (Charles) wanted money for the support of government; and he levied it, either by the revival of obsolete laws, or by violations, some more open, some more disguised, of the privileges of the nation."[4] While thus admitting frankly that Charles was encroaching on the nation's rights, he admits as frankly that the parliamentary leaders were also encroaching on the Crown and claiming privileges not sanctioned by precedent. "The leading members (of the Commons), men of an independent genius and large views, began (1610) to regulate their opinions more by the future consequences which they foresaw, than by the former precedents which were set before them; and they less aspired at maintaining the ancient

[1] Hume, V, 379.
[2] Hume, IV, 500.
[3] Hume, V, 540.
[4] Hume, V, 72.

constitution, than at establishing a new one, and a freer, and a better."[1] Is not Hume the only writer from Clarendon to Gardiner who has had sufficient courage to apply his own conclusions in regard to the confusion of precedent in the Middle Ages to the quarrels of the sixteenth century and decide that *both* were "*innovators*"?

The work of one of the most notable historians of the nineteenth century on this period, published some years before Gardiner wrote, has been almost entirely neglected by English students, and in Ranke's volumes they might have found that critical spirit, judicial temperament, and impartial judgment they thought so unique in Gardiner. The prejudgment of the case of which Hallam, Macaulay, Forster (and ordinarily Gardiner), were so fond is entirely absent. The declarations of the Commons are not greeted as axiomatic statements of what the law was and always had been, but as "their *assertions*," as "*their* conception of the law," as *their* statement or understanding of past precedent.[2] Coke "took his stand," says Ranke, "on the times of the later Plantagenet and of the Lancastrian kings; and he considered that the form which the relation between the government and Parliament then assumed was the only legal form. . . . Thus the system of government as it had been developed under the Tudors and continued under the Stuarts was encountered face to face by another system, which rested upon other precedents and principles." "Parliament demanded the policy of Queen Elizabeth; King James demanded her rights."[3] The precedent of the past "in fact contained much that was indefinite and dependent upon the circumstances of the time."[4] Instead of insisting on every page that Charles's conduct was illegal and tyrannical, Ranke says: "The policy in which the King saw a divine necessity, and the safety and future greatness of Great Britain, were regarded by the greater portion of his subjects as violence and oppres-

[1] Hume, IV, 416. Note also the careful statements at V, 93 and 126.
[2] See on precedent, Ranke, I, 440, 446, 499, 507–508; II, 38.
[3] Ranke, I, 499, 500, 508.
[4] Ranke, II, 67.

sion at home, weakness abroad, and inclination towards a system detested by them, which was just then threatening the world with subjection."[1]

Another noted foreign scholar, Guizot, had, also before Gardiner's day, given evidence of careful work on this period done in a wholly admirable temper. "Neither the prince (Charles) nor the people, more especially the latter, had as yet clearly ascertained the principle, or measured the compass of their pretensions; they approached each other, with the design and sincere hope of union, but at bottom disunion was already complete, for both the one and the other thought as sovereigns."[2] "They separated without either the one or the other side feeling itself weak or believing itself in the wrong, equally certain of the legitimacy of its pretensions, equally resolved to persevere in them."[3] "Rights exercised by the prince for a long time without dispute, and still without obstacle, came well nigh to be deemed abuses when a much greater number of persons felt their weight."[4] Guizot's Strafford is in essence Gardiner's: a passionate man of the greatest ability and diligence "eager to extend and strengthen the royal authority now become his own," and with somewhat of the despot and the tyrant in him. His "Thorough" meant "an administration arbitrary but powerful, consistent, laborious, holding in scorn the rights of the people, but occupying itself with the public happiness, despising all petty abuses, all minor misgovernment."[5] Guizot's idea of Laud, "a fanatic as sincere as stern," is less favorable to the primate than Masson's, but is perhaps quite as sympathetic as Hume's and Gardiner's.[6] Yet when all is said, Guizot, like Gardiner, decided against Charles: "notwithstanding the energy and zeal of his principal councillors, notwithstanding the tranquil state of the country, notwithstanding the private worth of the King's conduct, and the proud bearing of

[1] Ranke, II, 328, 329.
[2] Guizot, p. 11.
[3] Guizot, 13.
[4] Guizot, 7.
[5] Guizot, 39.
[6] Guizot, 39, 42, 90.

his language, the government was without strength and without consideration. . . . Despotism was pompously displayed, and, on occasion, exercised with rigor; but to give it a fixed basis required too many efforts, too much perseverence."[1]

Nor should we forget the temperate judgments and the admirable summary of this period given by Masson in his *Life of Milton*. In reality the book is less a life of Milton than a history of the time—careful, impartial, with a clear insight into cause and effect—and published some years before Gardiner's volumes.[2] Instead of writing about the tyranny of Charles and his illegal measures, he thus simply and with utter truthfulness characterizes the years 1629–40. "Charles and his ministers were to govern the country as best they could *by the very methods on which Parliament had left so emphatic a stigma.*" "Although so much of the action of government had for its sole end the bringing in of revenue, there were hundreds of contemporary acts which had their origin in no such motive, but simply in the desire, natural to all governments in those days, to fix each man passively in his proper place, and to maintain in each the sense that he was under the paternal charge of persons who could judge better than himself what he should eat, drink, and avoid."[3] Such arbitrary enactments "had some justification in preceding English practice and in the notions then entertained of political economy. . . . A few instances of Star Chamber severities between 1632 and 1638, usually selected now by historians as most conspicuous, serve but as specimens of many that are buried in the contemporary records."[4] Prynne's ears and Bastwick's suffering ap-

[1] Guizot, 42, 43.

[2] It is noteworthy that in his preface to the edition of 1881, Masson does not refer to any sweeping changes made necessary by Gardiner's eight volumes then published. For evidence that he had read him, see note I, 414. On the other hand, the influence of Masson on Gardiner was great. The use of Milton's "Lycidas" (*History*, VIII, 245) was probably suggested by Masson, II, 211 (or III, 455). The difference in the methods of the two men is clear. Masson says that the best possible description of Milton's thoughts is in his own words. Gardiner at once leaps to the conclusion that Milton's words express "the deepest feelings of the nation."

[3] Masson, *Milton*, I, 671, 672.

[4] When he illustrates, he makes it clear that he has given only an example, II, 48, 52, 54, 133, etc.

pear not as causes of the Revolution but as examples of a sort of practice which became a cause. Masson's admirably sympathetic, though lengthy, pen portrait of Laud has yet to be surpassed, and the concession regarding Laud's services to the Church for which Gardiner has been so extolled is to be found in it.[1] So far as we know, Masson is the only author who has attempted really to investigate the numerical strength of religious and constitutional parties,[2] or to describe the ideas of the majority (instead of leaving the reader to assume that their ideas were identical with those of the leaders), or to describe the administrative organs and their daily working.[3] He alone seems to feel that it is necessary to understand the normal in order to comprehend the abnormal.

There are a number of other excellencies claimed for Gardiner and asserted to be unique. Much commendation was given Gardiner's statement that he consciously began his *History* with 1603 instead of with the more dramatic events of 1625, because he believed the true character of the movement would not be understood without a detailed account of the reign of James.[4] His decision was praiseworthy but not unique. Clarendon had heard it often discussed whether the history of the Revolution should begin with James or with Elizabeth, and a century before Gardiner set pen to paper, David Hume began his *History of England* with the accession of James. After Hume, Mrs. Macauley also began in 1603, while Masson began in 1608. A generation before Gardiner wrote, Hallam began his study of the period with Henry VII and continued it to the death of George II. Forster began his discussion of the Grand Remonstrance with the beginnings of the constitution. Surely we have not lacked a sufficiently broad conception of the subject. Nor was Gardiner the first man, as some critics seemed

[1] Masson, I, 359, 384, 410, Gardiner's *Civil War*, II, 108. In *Cornhill Magazine*, XV, 793 (New Series), W. H. Hutton declares this idea of Gardiner's "one of the permanent judgments of English History."

[2] *Milton*, I, 368, 419. See, however, Guizot, 47, and some indeterminate rhetoric of Hume.

[3] *Milton*, I, Book III, chap. II.

[4] Especially the *Cornhill Magazine, op. cit.*, the *Quarterly Review*, CXCV, 551 *et passim.*

to infer, to attempt a study of the Thirty Years' War in connection with English history. Both Ranke and Guizot were before him, and few will claim that Gardiner's knowledge of European politics in the seventeenth century even approached that of Ranke. While Gardiner courageously rejected the fables of the memoir writers, others before him had done the same.[1] If, in the interests of scientific truth, we are to apply to the historians themselves the very qualities of justice and impartiality which we praise in one or the other, it must be admitted that the gulf between Gardiner and his predecessors was by no means considerable, and that Charles, Laud, and Strafford had been already treated before his advent with at least as much calmness and fairness as he accorded them. It is not possible to agree with Mr. Hutton that "men rubbed their eyes when they saw how the figures were changed in the new light." To begin with, the statement is not true; Gardiner's contemporaries did not consider his work new. Nor can we honestly agree with the *Quarterly Review* that "Mr. Gardiner has revolutionized the hitherto traditional treatment of English history during the earlier portion of the seventeenth century." [2] Nor can it be said in face of the work of Hume, Hallam, Masson, Ranke, and Guizot, that "the popular historians had denounced, *uncontradicted,* James I and Charles I, or Laud and Strafford." [3] Macaulay's *Essays* on Hallam and Hampden were virulent indeed, but the *History of England,* unfriendly as its attitude is towards those men, is far from being a denunciation. While Gardiner's *History* is unique, it is not in these directions that its exceptional qualities are found.

Gardiner's volumes are in fact the only detailed history of the whole period yet written by one man. Spedding's *Bacon* covered in far greater detail the years to 1621; Guizot treated the negotiations for the Spanish Marriage in detail; Forster and Masson had told the story from 1625 to 1642 with even more detail than Gardiner, and there Carlyle's volumes on Cromwell

[1] Notably Masson, Ranke, Disraeli, and others.
[2] *Quarterly Review*, CLIV, 2.
[3] *Ibid.*

took up the narrative. We have not lacked details, but no one man in one series of volumes covered the whole field in such detail. Except for Ranke and Hallam, Gardiner was the first to deal with the subject purely as a historian. Clarendon and Guizot were statesmen; Hume, a philosopher; Smollett, a literary hack, writing a century a month; Macaulay, a literary critic; Forster, an editor and general literary jack-of-all-trades. Hallam was the only English historian who had treated the subject, and he covered in one volume the period to which Gardiner allotted eighteen. Gardiner has not given us a final narrative, but the only detailed narrative. The seeker after literal accuracy will here insist that Gardiner was also an editor, reviewer, critic, teacher, and general literary hack. The exigencies of finance drove Gardiner, like Charles I, to uncongenial and strange expedients, but he was a historian, first, last, and all the time.

Again, Gardiner had the incomparable advantage of writing not only after the archives were fully opened, but after they had been in large measure calendared and indexed. His is the best account because no one else had the whole Record Office staff, plus the Historical Manuscripts Commission, busy doing his work. Hume, Guizot, Ranke, Carlyle, and the rest, fumbled and stumbled in the dark with only the tiny candle they themselves carried to shed light, and only their own eyes to read for them, while Gardiner worked in the full daylight (if the murky atmosphere of Chancery Lane can be so described), and with ample assistance. Let us not set this down to his discredit, but let us not forget this when we compare him with his predecessors. In fact, his was the first book published on the period which could possess even a *prima facie* claim to be considered exhaustive or final. Every previous writer was only too conscious that his results were tentative and that his labors had scarcely disturbed the dust of ages on the piles of documents. This note of finality in Gardiner's volumes is thus by no means his work.

X

THE CRITICAL VALUE OF GARDINER'S WORK

When we attempt to estimate the value and significance of Gardiner's method, our judgment will depend nearly as much upon the critical standard which we apply to it as upon our conclusions regarding its results. Method is in last analysis a notion of desirability, a definition of the requisites of a good history. The question is one of the oldest of those about which rival critics have berated each other and great scholars disagreed. Is the narrative itself or the generalizations based upon it more important? The historians are still fighting the battle between the ancients and the moderns, and are still debating Matthew Arnold's charge, that the ancients paid most attention to the construction of a literary work, while the moderns were satisfied to tell the facts and let the reader get the "total impression" for himself.

In reality, the contentions of the bookmakers reduce themselves to these: is style of any consequence in the writing of history; may a historian apply his knowledge of subsequent events to the data before him? It would hardly seem necessary to add that the validity of any reply will depend upon the meaning attached to that abused term, "style," and to that even more misunderstood substantive, "impartiality." An attempt to evaluate Gardiner's method makes singularly important a definition of both.

When Gardiner first wrote, style was often used as synonymous with rhetoric in the most debased sense of that term; impartiality denoted chiefly a lack of ardent Liberalism or Conservatism; awkwardness, or dulness, was praised as sobriety and trustworthiness; inaccuracy referred chiefly to errors in dates, in references, or in quotations. Indeed, some declared that a lack of style—in the sense of an absence of explosive adjectives and tawdry ornaments—was *prima facie* a guarantee of impartiality. Gardiner apparently assumed that, if his

intentions were right, his results would necessarily be trustworthy, and even thought that no honest and fair searcher could go far wrong. Labor in composition was not essential, he believed, because an accurate statement of events was the supremely desirable thing, and the sequence of the story was already established by its chronology. Summaries, generalizations, were to be considered as opportunities for the display of prejudice or preconception.

Despite the aversion by critics to a rhetorical meaning of style, and a failure of the learned to agree upon the essentials of that supersubtle quality, there is at present a pretty general consensus of opinion among all branches of the literary family that a book will not possess style unless it has unity, proportion in the whole and in its parts, clearness, consistency of word and thought, adaptation of the medium of expression to the ideas requiring utterance. That style in this larger and more fundamental sense is essential to any effective writing is not at present much disputed. That any method of work, which consciously failed to provide for these qualities or regarded them as anything less than prerequisites, would thereby condemn itself, will also not be widely contested. These canons are concerned with the arrangement of words only as a quite subsidiary part of that fundamental process, the arrangement of thought. A book lacks unity or proportion, not because there is some "literary" trick of using words of which the author scorns to avail himself to devote his attention to the acquisition of knowledge,[1] but because the content of the book lacks unity, and because the lack of proportion proceeds from a failure of the author rightly to appreciate relative values, to realize that the unified and con-

[1] F. York Powell in the *English Historical Review*, XVII, 277. "In his big book, he had to choose between giving time to style or to research, and he (wisely, as I think) determined that his first duty was to get at his results and set them forth as plainly and clearly as he could, knowing that he would not be able to furnish his book forth with a bravery meant to attract save at the cost of much pains better spent on investigation." J. K. Laughton praises (*Ibid*, XIII, 167) "the utter want of tinsel embroidery." See also *Saturday Review*, May 29, 1875, Dec. 22, 1877; *Quarterly Review*, CXCV, 565; J. F. Rhodes in the *Atlantic Monthly*, LXXXIX, 700; etc. See *per contra*, G. L. Beer in the *Critic*, XXXVIII, 546; and the quotations in Chapter II.

sistent statement of his results is as vital a step in the acquisition of knowledge as the collection of his materials, and more essential than constant additions to a collection of material not yet digested and arranged. Faults in composition mean faulty thinking, bad logic, a means ill adapted to its end, a method of statement failing in its purpose.

For the historian, this aspect of style is of transcendent importance. The reader should be interested in the narrative less for itself than for the generalizations which he expects it to establish. Clearness, unity, coherence have become more than permissive and desirable qualities. If the historian is merely an annalist, recording events which some one else is to expound and interpret, clearness may be the only requisite, for the chronology does establish the order of events. But, if he is to explain to his reader ever so little of what the story means to him, and, especially, if he is to show its relation to events past and future, he must seek to attain unity and above all consistency. Of what ultimate value are two contradictory opinions in the same book? Of what importance is the statement of five or six different ideas of a man's character without an attempt to weigh their relative value? The historian, who has not left his reader a clear, consistent, unified idea of what the period means, cannot be held to have discharged his trust.[1]

An opinion seems to be gaining ground that the vital "facts" in history are the broad generalizations about the causes, character, and results of great movements. Events or facts in the old sense these certainly are not; they are built out of many generalizations, themselves of broad import, resting upon the classification and analysis of innumerable details and requiring the collection of elaborate data upon many points remotely related to the final conclusion. Such was the lack of information and the inaccessibility of the evidence that Hume, Hallam, and Macaulay were forced to generalize from the slightest of data or refrain from generalizing at all. They chose the

[1] "A man who refuses to accept the test of consistency as a criterion of truth is either confused by words or confused in the very faculty of judgmnet." J. M. Robertson, *New Essays towards a Critical Method*, 12.

former alternative. This Gardiner saw was wrong: they were making bricks without straw, drawing conclusions without the evidence on which they should have rested. He himself went to the other extreme. He would form no conclusions; he would collect the straw and the clay, make such bricks as he could, and leave here and there indications for the guidance of later workers as to the sort of bricks needed and the type of arrangement likely to prove effective. His comments and suggestions he meant to be purely tentative, to be subjected to his own and others' later analysis. He was not attempting to produce a unified consistent interpretation of the period, whose broad generalizations would rest upon a solid substructure of verified data, with careful analysis of its relationship to other similar generalizations regarding earlier and later periods.

There has not been wanting a protest against his attitude. "Science," says Sir J. R. Seeley, "when it has with such exemplary care collected and verified its facts, proceeds to generalize upon them, and thus to establish principles. It is only for the sake of such principles that science considers facts worthy of collection and exact verification. But history, when it has made its investigations, contents itself with arranging and recording the results in stately narrative composed with literary art. The historian usually asserts that the results thus recorded are of great value; he seems to assume that general principles might be deduced from them, but he professes at the same time that his business is only with the facts, and that his work is done when a narrative has been composed exactly true and at the same time well written. . . . The historian (is) in the condition of a mere investigator and narrator of facts, asserting only that of those two functions the former is far more important and more difficult than the latter. . . . This subject, therefore, is left as a mass of building materials out of which no edifice is ever constructed. . . . We have given to history the conscientiousness of science, but we have not yet given it the arrangement of science. We still arrange historic phenomena under periods, centuries, reigns, dynasties, but what is wanted is a real rather than a temporal classification. . . . Thus industrial

facts cannot be understood without political economy, nor military facts without military science, nor legal facts without legal science; nor constitutional and legislative development without political science. . . . These theoretical subjects are the real objects for which historical facts are collected and authenticated. . . . Whereas the investigation of historical facts has lately been made honest and careful, the reasoning about historical facts is still, it seems to me, oracular and unsatisfactory; I wish to make this, too, honest, methodical, explicit." [1]

Tested by such premises as these, by the general notions about historical writing laid down in this chapter, Gardiner's method is inadequate. We must be mindful of the fact that the test we are applying to it is a personal notion of what is desirable and essential in historical writing, that we cannot claim that any actual agreement as yet exists between students. Still, the prerequisites stated above seem not unfairly to represent an opinion, which, if not universal, is none the less very general. Gardiner's work seems no longer to conform to the present idea of what an adequate history ought to be. Its contradictions and inconsistencies, its lack of unity and coherence make it not a history in the true sense, but "a mass of building materials." Nor is Gardiner's defense now valid. We are no longer deprived of the means for constructing something better than the vague generalizations of Hallam and Macaulay. The opening of the archives, the calendaring and cataloguing of the last decades have made possible the collection of a body of verified evidence upon which complex and far reaching generalizations can satisfactorily be based. While fully conscious that Gardiner is not to be censured for the change of circumstances, which has removed the restrictions under which he began his work, we ought not to forget that the volumes he left fail to pass the present tests of unity and consistency.

Gardiner accomplished, in fact, exactly what he thought best worth while: he has left his readers what he found day by day in the documents, with the comments which seemed to him at the moment pertinent. The defects of his book as a history of the

[1] In *Methods of Teaching History*, edited by G. Stanley Hall, 196–200.

period seem to be due rather to his method,[1] than to any lack of ability in the man himself. How could any man work along day by day attempting to cover once and for all the materials in print and in manuscript;[2] interpret them without conscious study of subsequent events; produce the final text of his *History*, comment and citation complete, in the first draft; and, except for obvious slips, print this first sketch without revision? Such a method would require superhuman qualities for success. It is curious that Gardiner himself should have felt so little the obvious opportunity for the multiplication of contradictions and inconsistencies fostered by such a method of composition, and that he should have been so suspicious of the light shed upon any series of events by the happenings of the following years.

The attempt to maintain his contemporary standpoint was, from the reader's point of view, a failure. To have investigated the facts absolutely without reference to any event, previous or subsequent, to have carefully written down the result, and then to have followed it with comments obviously based upon the reader's own standpoint, not only concealed from the reader what Gardiner was trying to do, but gave him exactly what should at that moment have been kept furthest from him, another view point than that of a contemporary. Indeed, in commenting at all upon events, Gardiner departed from his own method, abandoned confessedly the contemporary view point he felt to be so significant, and was necessarily forced to generalize from the same insufficient evidence and with the same preconceptions which he disliked in Macaulay's work. He really attempted to do two things, each inconsistent with the other.

Such impartiality as Gardiner promised was really little more than a pledge not consciously to make capital for either of the political parties then in the ascendant or to take sides in the old Jacobite quarrel. His attempts to hold the balance even led to

[1] This statement does not contradict the opinion that it is the best we have or are likely to have for some years. Probably nothing will ever again be written in such detail.

[2] As a matter of fact, Gardiner found this impossible. He was always reading, despite himself, some evidence later than his period, or finding himself forced to reconstruct what he had written because of new evidence.

further inconsistencies and to a splitting of hairs and a paring away of differences, till, as Goldwin Smith said, there seemed to be too little left to the Civil War to be worth fighting about.[1] All this formed a frequent text of his critics, who complained of the "labyrinth of uncertain hypotheses"[2] into which he led them, and of the "kind of moral haze" which "his very passion for fairness" shed "over persons and events that ought to be looked at simply in the dry light of historical narrative."[3] In fact, this attempt to hold the scales even in the light of subsequent events was inconsistent with the view point of a contemporary and the two ideas frequently so clashed as to puzzle sorely both critic and reader. It is hard to see how any one could have followed such a method and not have failed in precisely the same way.

The method is largely responsible for the fact that these eighteen volumes are only a sort of *Jahrbuch*, an annalistic account of how this or that happened. In his anxiety to make clear the sequence of events, the inevitableness with which one led to another, and their action, interaction, and reaction, Gardiner gave little thought to the why and the wherefore—to the philosophy of the situation and the explanation of these events whose sequence he was so busily tracing.[4] Causes and results seemed to him self-evident, and needed little explanation beyond what the narrative itself would supply.[5] He collected the

[1] *American Historical Review*, III, 139. See also the *Atheneum* for 1875.

[2] *Nation*, August 5, 1875. "When it is admitted that Mr. Gardiner maintains with rare success the position of rigorous impartiality, a question arises whether 'impartiality' as distinguished from the fairness which is the duty of every writer, is such an absolute and undoubted merit as it appears to Mr. Gardiner." The critic thought that Gardiner's method by no means necessarily established the truth.

[3] *Nation*, March 9, 1882.

[4] Guizot's criticism of English historians for this trait is peculiarly applicable to Gardiner. *History of the English Revolution*, preface, xviii.

[5] The *Quarterly Review* for April, 1898, declared, as had the *Saturday Review* in 1863, that Gardiner gave his readers processes and not results, and associated him too much "with the preparation of materials." "Not that there is not much reflection and instruction in these volumes: but we have to hunt for it. . . . Mr. Gardiner is too modest. We want him to tell his own thoughts and he sends us to 'Mercurius Politicus' and 'Putney Projects.' We lose ourselves in a crowd of inferior actors. . . . So again in the actions of the army between 1647 and 1649, we sometimes cannot see the wood for the trees. . . . Mr. Gardiner lacks the ambition or the comprehensive power to gather up the history in his hand and trace causes to their results, to throw light on the mutual influence of the Man and the Hour." *Quarterly Review*, CLXXXVII, 446–448.

materials for a magnificent building, dug the foundations, fashioned a good many of the stones, collecting some of them in piles, but did nothing towards actually erecting the cathedral. In his *Cromwell's Place in History*, in his chapter in the *Cambridge Modern History* and in his little brochure *The Puritan Revolution*, we see something of the plans; here and there he has left us an exquisite bit of detail like *What Gunpowder Plot Was*. But the eighteen volumes are, for so extensive a work, astonishingly lacking in any complete notion of what the movement as a whole was. We find nothing about the administrative machinery of Thorough; nothing about the ordinary methods of business in the Council and in the courts, not even as much as Masson gives us in a literary history; nothing about the political theories, policies, or ideals of the leaders, except a sort of comment by the way. Really, Gardiner's volumes are the first draft of a final history of the period and contain a more careful preliminary sifting of the facts than has yet been made for any period in the political history of England.

There remains that misunderstood quality, impartiality. Every critic and historian believes he himself possesses it; most critics are chary to admit its existence in any one else. In Gardiner's case, critics quoted his intention to be impartial as almost a guarantee of the accomplishment of that feat. If we admit that a man's intentions are valid proof, we must remember that Hume, Macaulay, Forster, and others possessed not only as high an ideal of what historical writing should be, but the same ideal. In truth, as Mr. Rhodes has pointed out in this connection, few, if any, historians have been intentionally prejudiced. We are no more justified in assuming Gardiner's impartiality as axiomatic than we are in accepting Macaulay's or indeed anybody's. For we are all fallible to the extent of believing ourselves accurate and impartial on those subjects on which we have honestly tried to inform ourselves. Everybody who thinks at all must premise as the first postulate of intellectual honesty and fair judgment, his own substantial accuracy and impartiality.

Nor will it by any means follow that, because Gardiner possessed none of the preconceptions *then common* among historians, he was able entirely to disassociate himself from the political, scientific, and mental world about him. Is it not at least con-

ceivable that every one possesses some subtle but strong bias which unconsciously colors everything he thinks or writes? Is it not true that we cannot, if we would, lay aside our ideas of God, of the world, of good and evil, of history in general, of our own times, and all the innumerable conclusions which we draw from those premises, and which differentiate our *ego* from that of other men? A very imperfect acquaintance with the main tenets of philosophy and psychology will tell us that truth, accuracy, and impartiality are only approximations; that any judgment at all, any point of view whatever, depends less on what we have just learned than on the application to it of what we knew before. As a matter of fact, any conception of historical characters or of a sequence of events is no more than a statement of certain bare facts viewed through the medium of our personality, or (in other words) through our preconceptions.

When, therefore, we say that Gardiner is impartial, we mean that his preconceptions are either so subtle that we cannot easily detect them, or that they are the same premises from which we ourselves would be compelled to judge those same facts.

Indeed, when we say a writer's account is absolutely accurate, we only mean that he knows everything we *now* know about it. It is not the actual perfection of his work nearly so much as it is the relative imperfection of our knowledge as critics that must inevitably be the ground for declarations of his accuracy and finality. And his statement itself is the result of the same process: it is itself based rather on his belief that there is no evidence to the contrary rather than on an absolutely complete investigation of all evidence and a knowledge that no other interpretation is possible. Every historian must be aware of how small is the proportion of what he knows to the things he would like to know, and of how many chances there are that a very little more first class evidence would radically alter his view of a long chain of events. When we say an account is final, we mean that the author seems to us to have done all that we could conceive any one's doing with the imperfect materials at hand; when we declare him impartial, we only mean that we possess the same basic ideas and preconceptions that he does, and that we cannot

see that in forming his opinions he has used any others. We have applied to him those same tests for accuracy, finality, and impartiality which we would honestly have applied to our own work. All criticism seems to be not only relative but personal. If favorable, it means that the author and critic are in the same stage of development, see things in general from the same angle; if unfavorable, that the two are either in different stages of development, or see things in general from a different angle.

We cannot demand less of Gardiner's method than that it shall attain broad generalizations of importance about the period, based upon a careful analysis of data, and that it shall set forth these conceptions clearly and with consistency. But we must also remember that no one is in a literal sense impartial, and we ought not to be surprised to find that Gardiner, too, was moved by some unconscious subjective influence. In fact, we no longer approach the subject from his general standpoint and with the preconceptions and prepossessions of fair-minded and thoroughly honest men, trained in the mid-Victorian age when *Vanity Fair* was still new. We can no longer agree that he read as much evidence as can now be read on these subjects, nor that he read it as carefully as is now possible for diligent students. The workers, who have followed him, have found many hands more effective than his unaided efforts and have shown in many places *lacunæ* and in others errors which prevent us from conceding longer that he occupies a higher plane than other scholarly and critical students of the same field. Indeed, his case shows us that impartiality is a point of view rather than a positive quality and depends upon an identity of opinion in author and critic upon many matters not essentially historical. It is of more consequence to note that students in other fields, in mediaeval and modern English history, Maitland, Dicey, and others, have been busy in these intervening years, undermining and destroying the general notions and premises of earlier and later English history upon which were based Gardiner's notions of the picture whose details he was elaborating. The historical, political, and literary world now stands upon the achievements of the half century of which Gardiner was himself a part, and

his work now looks different to us than it did to his contemporaries.

His impartiality, as accepted then, can no longer be stated as a definite fact. We now know too much about him and his time. It is the subtlety of his mind, his constant fight against the influence of his own ideas that has required the lapse of so many years to make evident what influence his environment and intellectual premises actually had. Without being active in party politics, he was an enthusiastic liberal and parliamentarian. In his youth, he became a disciple of Irving, the founder of the Irvingite sect, whose "mother" church at Gordon Square, London, is interesting to visit. He lacked a belief in the significance and importance in English life of the Established Church which, some of his friends assert, led him unconsciously to neglect ecclesiastical history and to magnify the part played by the Puritans. He was a descendant of Oliver Cromwell and had a great admiration for him and for the Puritans in general. He was not informed on legal subjects, though he tried usually to "read up" questions that appeared in the narrative. But it would be idle to seek for any direct influence upon his work of such obvious matters as these, of which he was fully conscious. The real influences were subtle, unconscious promptings of the intellectual premises of his period and of the general view of English history held previous to 1870.

It is, indeed, to the very preconceptions with which to-day we disagree that his reputation among his contemporaries was chiefly due. Histories of England, like all other national histories, have been Chauvinistic, written in each generation under the influence of the general prepossessions of the time. Clarendon wrote the Restoration idea of Charles and of the Revolution, modified to suit the purposes of an *apologia pro vita sua*. When Hume wrote, the memories of the Boyne were still fresh, but the Hanoverians were at last firmly settled on the throne; the Parliament was victorious, but the Crown was still strong and cabinet government not yet understood. This anomalous situation, as well as Hume's philosophical training, unquestionably influenced his views and perhaps explains his "impartiality." With the rise of liberal ideas and the active propa-

ganda for parliamentary reform, with the growth of the historical novel in the hands of Scott, and of the radical effusions of the Byronic school about *Liberty* and *Freedom*, a glorification of Parliament and of the national liberties began, and in the throes of the political struggles for reform were written the most violent statements of Macaulay, Forster, and Carlyle. Hume only seems to have succeeded among English writers in approaching the detachment and clarity of view that marks the work of Guizot and Ranke. As foreigners, the latter were able honestly to conceive the legality of the royalist arguments as an actuality, where Hume found Charles's legal views only a philosophical excuse for his otherwise inexplicable actions, and Hallam and Macaulay could view them only as mental abstractions, possible, but neither probable nor plausible.

As Lord Morley has well shown in his critique on Macaulay, the great vogue of this style of historical writing was due to the vivid patriotism and warm liberal sentiments that lay behind it. The greatness of England, the glories of its history, the wonderful struggle of the nation for its liberties, the sanctity of Parliament by whose instrumentality they had been preserved, the despicable character of kings who withstood the progress of their subjects' liberty and wished to hold them in bondage, all this struck an answering chord in the hearts of the enthusiastic adherents of Grey and Russell, and of the fervidly loyal subjects of the young Victoria. Englishmen saw Parliament and its history in a roseate glow of pious splendor. But Macaulay and Forster wrote patriotic history with such evident intent to prove the premise and with such boisterous self-assertion, that, while the unsophisticated still devour it greedily, the learned found in it, and still find, a fatal flaw. They revolt at the spectacle, so humorously suggested by Lord Morley, of the historian dragging Truth after him by the hair of the head and openly exulting in her adhesion to his cause. They would not so secure her favor and protection. They would fain believe she favors them, but they do not dare; the evidence of constraint is too patent.

Now, while Gardiner's history is not one whit less patriotic than Macaulay's, it is soberly written. He thrills with that same honest and generous glow of pride and declares that "not in

statute or precedent, not even in the Great Charter itself, but in the imperishable vitality of the nation, lay the fundamental laws of England." [1] That is Gardiner's reply to Charles's legal subtleties, and it will awaken an echo in every good Anglo-Saxon heart. With a soberness which gives the distrusting student confidence, with an awkwardness of style and lack of elegance which Englishmen always find convincing, with a wealth of detail hitherto impossible, Gardiner retold the patriotic legend. He stripped off the gauds and trinkets in which Macaulay had decked it, and which offended the taste of the learned, and dressed it in a sober grey, which the professors and critics found delightful. Men of all classes liked his book because they felt it gave them the cool, unadorned facts supporting those same patriotic conclusions which the popular Hume, the careful Hallam, and the insistent Macaulay had already planted in their breasts. They might now believe with safety. *Et Deum laudabant.*

The period, as a whole, has still to be investigated in a truly scientific manner. The final verdict, far from having been pronounced, has not yet been even approached. We have had annalists and archivists in plenty, but, except perhaps for Hume, no writer who has concerned himself primarily with cause and effect, with results and broad outlines, and with the establishing of great and significant deductions. To add a new fact here and there; to clear Charles or Strafford of this or that aspersion; to pare away a bit of the "tyranny" or demonstrate the fallacy of some Cromwellian legend; this was Gardiner's task as it had been Forster's and Macaulay's before him. But to *prove* the existence of universal dissatisfaction with Charles; to *demonstrate* the illegality of his acts and the suffering of England under his tyranny; actually to accumulate evidence directly showing that the people were justified in revolting; and to consider in detail the character, purpose, and result of the Revolution; this no one has attempted. The English Revolution of 1640 is as much an enigma to-day as it was to Charles himself. It is a riddle which has yet to be solved.

[1] *History*, VIII, 85.

But the reason why the solution has not yet been sought is absurdly simple: every one assumed it had already been found. Since the days of Pym and Hampden, few have ventured to question the correctness of the views set forth in the Grand Remonstrance and expounded at the trials of Strafford, Laud, and Charles. From that day to this, the history of England preceding 1640 has been written from the point of view of Pym, the history of the Civil War from the point of view of Cromwell in 1649, and the history of the Protectorate from the point of view of Monk in 1660. The first has attempted to justify the Revolution of 1640 and the execution of Strafford; the second, the execution of Charles; and the third, the Restoration. Men have striven to show that what happened was right, and in doing so have taken as their premise the very conclusion which they wished to prove. Every Englishman born since 1800 has in fact been born into a view of English history. He looks about him and sees a strong and noble nation governing itself through the House of Commons in accordance with the most subtle and peculiar unwritten laws and conventions. He looks at the splendid achievements of his country and swells with honest pride at her greatness and at her beneficent influence in the world. That the system which has achieved such notable results is wrong, he cannot conceive; that any one of the steps in the upbuilding of this great fabric was the product of aught but the noblest ideals and the most splendid conceptions, he does not wish to credit. Nor will he admit that aught was the result of accident, of illegal encroachments, of cataclysmic change. If what exists is good—and what Englishman can doubt it?—then the means by which it was brought into existence were justifiable and legal.

This attitude, however natural, and however true of all nations, inevitably prejudges every episode in English history from the landing of Hengist and Horsa to the Reform Bill of 1832. The quarrels of 1640, 1689, and 1832 were extended into the past; the early squabbles of Alfred with his thegns, the bickering between Henry III and his nobles became inevitably the first definite steps in the struggle for the legislative suprem-

acy of Parliament. The clear hostility between King and Parliament in the seventeenth and eighteenth centuries tinged the history of the thirteenth and fourteenth, and historians developed great ability at finding the ideas of the later centuries, in utterly different language, of course (which none seemed to think was significant), in 1215 and 1258.

But few will attempt to controvert a statement that really to *investigate* with scientific accuracy and care the history of England in the seventeenth century means a *willingness* to prove that the ideas of 1640 were new and not old; that the King was right and the Parliament wrong in its legal contentions; that the discontent was very limited; that the "tyranny" was not oppressive nor burdensome and not the cause of the revolt; and that the revolt itself was not in the modern sense national at all. From these possibilities (and it must be carefully borne in mind that they are spoken of here solely as possibilities yet to be proved), every Englishman will naturally shrink. They are to him inconceivable. Ship money justifiable? Hampden's law bad? The Revolution of 1640 begun by Pym and the Parliament, without justification in law, to "relieve" "a suffering nation," which was not suffering at all, by taking into their own hands for selfish and personal reasons the power which the King had exercised? Yet, until we are ready to accept such conclusions, we have not begun to investigate history. The historians seem to have assumed the opposite to be true and found the proof in the fact that the Revolution took place; that to the best of their belief their own happiness was based upon its results; and that their ancestors had declared this view of the matter true. In fact, the Englishman of the present day cannot conceive of England minus a Parliament invested with supreme legislative authority and does not stop to consider that the alternative to the present Parliament and past ideas about the methods by which its authority was won will not necessarily be to remove Parliament from history. Nor does it follow that, because present conditions cannot be justified in the traditional way, they are therefore indefensible.

No treatment of this period will be scientific until it shall apply to it the results obtained by specialists in other fields of English and European history. The work of Maitland is all important for any comprehension at all of constitutional questions. Then, it is hardly possible longer to maintain the old conception of a history, so fully exemplified by Gardiner, as the narrative of speeches, battles, and embassies, with little attention to institutional history, the strategical geography of the country, or the basic principles of European diplomacy. The commonplaces of legal, economic, and social history must be utilized as a basis for historical investigation and interpretation. The legal conception of legal questions, the economic theory and fact underlying a question of taxation received apparently no attention from the older school of Forster and Gardiner, though they had had some from Hume and Macaulay. They are, in fact, among the most salient and significant things which the historian of this period needs to grasp. A willingness to be convinced of the truth whatever it may be, a broad comprehensive knowledge of the fundamental conditions of life in the seventeenth century, a realization that a few facts roughly grouped together in chronological order do not make a history, these are primal qualifications needed for the scientific writing of the history of any period and in particular of so complicated and vital a period as that of the Revolution of 1640.

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